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# ENVIRONMENTAL ASSESSMENT BOARD

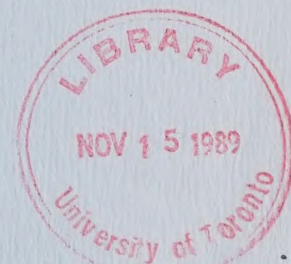
VOLUME: 155

DATE: Thursday, November 2nd, 1989

BEFORE: M.I. JEFFERY, Q.C., Chairman

E. MARTEL, Member

A. KOVEN, Member



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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL  
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR  
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental  
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental  
Assessment for Timber Management on Crown  
Lands in Ontario;

- and -

IN THE MATTER OF a Notice by the  
Honourable Jim Bradley, Minister of the  
Environment, requiring the Environmental  
Assessment Board to hold a hearing with  
respect to a Class Environmental  
Assessment (No. NR-AA-30) of an  
undertaking by the Ministry of Natural  
Resources for the activity of timber  
management on Crown Lands in Ontario.

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Hearing held at the Ramada Prince Arthur  
Hotel, 17 North Cumberland St., Thunder  
Bay, Ontario, on Thursday, November 2nd,  
1989, commencing at 8:00 a.m.

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VOLUME 155

BEFORE:

MR. MICHAEL I. JEFFERY, Q.C.	Chairman
MR. ELIE MARTEL	Member
MRS. ANNE KOVEN	Member







A P P E A R A N C E S


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I N D E X   O F   P R O C E E D I N G S

<u>Witness:</u>	<u>Page No.</u>
<u>JOHN McNICOL,</u>	
<u>FRANK D. KENNEDY,</u>	
<u>J. JOSEPH CHURCHER,</u>	
<u>RICHARD WILLIAM GROVES,</u>	
<u>HARTLEY MULTAMAKI,</u>	
<u>ALBERT BISSCHOP,</u>	
<u>ROGER W. DAVISON,</u>	
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Continued Cross-Examination by Mr. Campbell	26898
Re-Direct Examination by Mr. Freidin	27032





1 ---Upon commencing at 8:05 a.m.

2 THE CHAIRMAN: Thank you. Be seated,  
3 please.

4 Mr. Campbell?

5 MR. CAMPBELL: Thank you, Mr. Chairman.  
6 My mike is completely falling apart. Sorry, Mr.  
7 Chairman.

8 JOHN McNICOL,  
9 FRANK D. KENNEDY,  
10 J. JOSEPH CHURCHER,  
11 RICHARD WILLIAM GROVES,  
12 HARTLEY MULTAMAKI,  
13 ALBERT BISSCHOP,  
14 ROGER W. DAVISON,  
15 ROBERT THOMAS FLEET, Resumed

16 CONTINUED CROSS-EXAMINATION BY MR. CAMPBELL:

17 Q. Gentlemen, yesterday we provided you  
18 with some documentation in respect of suggested tables  
19 with respect to area of concern planning record, access  
20 road planning record, and crossing analysis if it's an  
21 AOC crossing analysis, and you had an opportunity to  
22 discuss that material following the hearing yesterday.

23 I would like to, I guess, basically just  
24 record and ask you a few questions about the results of  
25 those discussions.

26 MR. CAMPBELL: Mr. Chairman, I am a  
27 little embarrassed to say that the pages 34 that the  
28 Board was provided were a slightly earlier draft. We

1 gave the panel the correct - it's 35, I am sorry - we  
2 gave the panel last night the correct material and we  
3 would like to make sure that the Board has it now.

4 The only change on page 35 is that there  
5 is an entry under the alternative section which deals  
6 with use management strategies, and if the Board would  
7 simply throw away it's old page 35 and put in the new  
8 one, it would be appreciated.

9 MS. SEABORN: (handed)

10 MR. CAMPBELL: Mr. Freidin doesn't have  
11 his copies here, so I just want to make sure we provide  
12 him with copies.

13 MR. CAMPBELL: Right.

14 Q. Mr. Kennedy or Mr. Bisschop, whoever  
15 feels like speaking first this morning. I just ask you  
16 to confirm that the requirement for documentation in  
17 connection with AOCs is a requirement in the Timber  
18 Management Planning Manual and that is set out I  
19 believe at page 110; is that correct?

20 MR. BISSCHOP: A. That's correct.

21 Q. And there is no specific table or  
22 other form for that documentation provided in the  
23 Timber Management Planning Manual?

24 A. That's correct.

25 Q. And in fact on reviewing the various



1 examples that we have included, I am sure others, Mr.  
2 Bisschop, that you are quite familiar with in other  
3 plans, there is a wide variability in the documentation  
4 and level of analysis that is currently being provided  
5 in the area of concern documentation. Is that a fair  
6 statement?

7 A. Yes, that is fair.

8 Q. Now, we have provided you with this  
9 page 34, Part 1 of Exhibit 911, and I would ask you to  
10 confirm just a couple of things about it.

11 First of all, as I understand it, in the  
12 top area of the table that basically gives location and  
13 information about whether a road crossing is required,  
14 information available and area of concern heading, as I  
15 understand it, you believe that what is called for by  
16 this form is, if anything, a little on the light side  
17 in terms of providing information. Is that fair?

18 A. In general that's correct, yes. It  
19 meets -- in terms of outlining a form, it meets the  
20 kind of requirements that we had laid out in the  
21 training material which we provided the copy of, it's  
22 page 6 I think of this package, yesterday.

23 Q. All right. But I can take it the  
24 simple answer to my question is yes?

25 A. Yes.

1                   Q.   There is no argument about putting in  
2                   identified values or applicable guidelines and resource  
3                   manuals, as I understand it, but you did have a concern  
4                   about the section under the questions that that was  
5                   perhaps a bit simplistic, it was more in terms of  
6                   training material to focus peoples' minds on the types  
7                   of broad questions they were having to answer. Is all  
8                   of that correct?

9                   A.   That's correct. We have some  
10                  question about whether or not the questions are  
11                  necessary on the form.

12                 Q.   Right. And we certainly won't object  
13                  to their removal. With respect to alternatives, I take  
14                  it that the kind of information that is contemplated  
15                  being covered in that section you also see as being  
16                  appropriate?

17                 A.   Yes. One comment I would make is  
18                  that under each of the alternative prescriptions you  
19                  have used the word 'evaluation' in various forms I have  
20                  seen and in training messages that we have given, we've  
21                  used the word analysis. Probably there is a great deal  
22                  of variability in terms of what documentation appears  
23                  there.

24                 I think as part of our development of a  
25                  form which we have committed ourselves to, I think it



1 becomes a question of the instructions that accompany  
2 the form so it's very clear about what our expectations  
3 are in terms of the kind of documentation that appears  
4 there.

5 Q. All right. And as I understand it  
6 from your training material and from the Timber  
7 Management Planning Manual, the next three items;  
8 public comments and alternative prescriptions, access  
9 considerations and preferred alternative, committed  
10 preventive and mitigative measures, and rationale  
11 justification are all matters which you contemplate  
12 addressing in the form that you are developing for this  
13 purpose?

14 A. Yes. And another comment I would  
15 make is that with the inclusion of the information you  
16 provided at the top of the page with respect to road  
17 crossings, I would suggest that deals with primary and  
18 secondary road crossings in area of concern when we  
19 have to determine a location. Under the subject of  
20 access considerations at the bottom of your page is  
21 where I would expect to see discussion of conditions on  
22 tertiary roads.

23 Q. And then the final item there we have  
24 seen on several plans and mentioned in the training  
25 material is compliance monitoring program. We have

1 also seen in several plans mention of effectiveness  
2 monitoring.

3 I could give you some examples. Page 154  
4 in Part 2 is an example of that in the Armstrong plan,  
5 and that entry, although I don't believe there are --  
6 on that particular page there are any entries against  
7 it, in Elk Lake plan page 171 deals with effectiveness  
8 monitoring.

9 And I wondered what your impression was  
10 as to what was contemplated in terms of monitoring  
11 requirements for effectiveness. The statement with  
12 respect to the Armstrong plan at page 154 is that:

13 "The Ministry of Natural Resources will  
14 monitor timber management operations to  
15 ensure that the prescriptions applied  
16 effectively address the requirements of  
17 the specific area, site and situation."

18 And do I understand from this that that  
19 is the Ministry's general approach - that wording is  
20 repeated in several places in this material - that that  
21 is the general approach that the Ministry intends to  
22 take to deal with this topic when doing area of concern  
23 planning?

24 A. I wouldn't say that the kind of  
25 documentation that is on that form is exactly what the



1 Ministry has expected. In fairness, I think the  
2 discussion of this is probably most appropriately  
3 addressed by Panel 16. I am aware that Ministry of the  
4 Environment asked interrogatories about this matter and  
5 I'm sure that Panel 16 is going to deal with this.

6 Obviously the subject of effectiveness of  
7 any prescription is something that can only be  
8 addressed after the prescription has been implemented.  
9 So in terms of a consideration of some section of this  
10 form dealing with effectiveness, it would have to be  
11 something that is filled out on the form after the  
12 prescription has been implemented.

13 Also, I think I referred to it in  
14 evidence before --

15 Q. Sorry, if I could just stop you there  
16 before we get too far along. I will let you finish.  
17 What is contemplated here, as I understood it, was  
18 simply setting out the program that would be put in  
19 place in order to assess the effectiveness; that is,  
20 what went in the form so they could describe what was  
21 going to be done, not necessarily the ex post facto  
22 results.

23 Monitoring by its very nature can only  
24 take place once you've started doing something, so  
25 necessarily any portion of a planning document that

1 deals with monitoring is going to be forwardlooking.

2 Have I misunderstood what is contemplated here?

3 A. No, actually you have -- it's exactly  
4 the point I was going to make before you interrupted  
5 with the question.

6 The monitoring of operations in areas of  
7 concern is going to, as I understand it - and, again,  
8 you will hear details in Panel 16 - is going to revolve  
9 around the area inspection program. That area  
10 inspection program is primarily compliance oriented as  
11 it comes to AOCs.

12 There will be what we would call I guess  
13 an observational dimension of those inspections that  
14 will record observational comments made by the  
15 inspector about the effectiveness of the prescription.

16 Q. All right. And is all of that going  
17 to be dealt with in your Panel 16 evidence?

18 A. Yes.

19 Q. All right. I will leave those  
20 questions for that panel then.

21 But I can take it then, Mr. Kennedy and  
22 Mr. Bisschop, that all of these kind of suggestions  
23 that we have made with respect to the planning record  
24 are generally consistent with the kind of approach that  
25 MNR intends to bring forward on December -- on or

1 before December 15th, as I understood it from Mr.  
2 Freidin. Is that generally correct?

3 A. Yes. The one comment I would make is  
4 that as with all forms we will have to provide clear  
5 instructions about what the expectations are in terms  
6 of filling out the forms.

7 Q. I couldn't agree more because, as we  
8 saw yesterday, there are some times when unclear  
9 instructions can be quite misleading. You would agree  
10 with that?

11 A. That's correct.

12 MR. CAMPBELL: Mr. Chairman, just in case  
13 you didn't get the reference down, I am not sure  
14 whether I gave it for the effectiveness monitoring,  
15 that was page 154 which was the illustration from the  
16 Armstrong plan.

17 Q. Before going on to the access road  
18 planning, Mr. Bisschop and Mr. Kennedy, I want to turn  
19 your attention to two of the forms, or two pages in the  
20 information that is provided about area of concern  
21 planning.

22 The first one is page 149 in Part 2 of  
23 Exhibit 911. This is basically a listing, as I  
24 understand it, of areas of concern and I would just ask  
25 a question as to what exactly -- so that I am



1 absolutely clear what I am seeing here, as I understand  
2 it, what I am seeing here is an identification of  
3 various areas of concern under the general heading of  
4 sensitive areas and the feature or the comment that  
5 indicates why the area is sensitive relates to  
6 basically, as I understand it, soil conditions. Is  
7 that fair?

8 MR. MULTAMAKI: A. Perhaps I can help  
9 you out with that, Mr. Campbell. What you are seeing  
10 here on page 149 in fact is a values listing that was  
11 used to prepare the values map for the Armstrong area,  
12 in fact, that areas of concern at the top should state  
13 values information.

14 Q. All right. So that this whole table  
15 that went on for pages and pages at Armstrong is wrong;  
16 is that what you are saying?

17 A. No. What I am saying is that the  
18 term 'areas of concern' should in fact have stated  
19 values information and the pages and pages and pages,  
20 in fact, listed each individual value that was on the  
21 Armstrong forest.

22 Q. All right. So that I could expect  
23 that sensitive areas then, being on the values listing,  
24 sensitive areas should be on the values map for  
25 Armstrong showing that these different areas of these

1 soil types constitute sensitive areas; is that correct?

2 A. Yes, that's correct. If I am not  
3 mistaken, those are ANSIs.

4 Q. All right. And what I would like you  
5 to confirm is that what is given here in terms of an  
6 indication of the value or the concern, or the value  
7 about which there might be a concern is, in effect,  
8 soils information?

9 A. It's not only limited to soils  
10 information. If you had supplied the whole values  
11 listing it's, I don't know, 50 or 60 pages long as I  
12 remember it and it contained a great deal of  
13 information of which soils was only a portion.

14 Q. Well, I've included -- I mean, I  
15 tried to illustrate that, there is some examples on  
16 previous pages and I have never suggested that we were  
17 including the whole thing. I am just talking about  
18 this page. The concerns that are dealt with on this  
19 page are soils related concerns; are they not?

20 MR. KENNEDY: A. Not entirely, Mr.  
21 Campbell.

22 Q. There are a significant number of  
23 soils related concerns listed on this page under  
24 sensitive areas?

25 A. I don't believe that soils related

1 concerns would be correct, perhaps wording would be  
2 features that have soil characteristics associated with  
3 them or the predominant --

4 Q. All right. Features with soil  
5 characteristics associated with them that are  
6 identified as sensitive areas. Would that capture it  
7 all?

8 A. Certainly.

9 Q. Thank you.

10 A. It would all capture the majority of  
11 them.

12 THE CHAIRMAN: Well, does anything turn  
13 on the fact that some of them may not be, strictly  
14 speaking, soils related?

15 MR. CAMPBELL: No, I just want it clear  
16 that this forester was able to identify features that  
17 are soil related that are identified as sensitive  
18 areas, and I think he's agreed with that, and we could  
19 argue about how many fall into that category.

20 Q. It is quite clear though, Mr.  
21 Kennedy, that the forester was able to identify those  
22 matters; was he not?

23 MR. KENNEDY: A. I don't believe this  
24 information was identified by the forester in terms of  
25 identifying them on the landscape. I believe that this



1 information was in files related to specific surveys  
2 that were undertaken at the time of identifying  
3 features which may be representative features  
4 throughout northwestern Ontario that would be suitable  
5 for inclusion in park areas and, as such, there would  
6 have been specific surveys undertaken to identify this  
7 kind of information.

8 Q. Well, just a minute. We have a peat  
9 land area 3330-3, Windigo Bay, a base map, a top map  
10 reference, peat land area, it occurs on a list that is  
11 under sensitive areas. Are you telling me that this is  
12 not identified by the person who prepared this plan as  
13 an area with soil characteristics that is identified as  
14 sensitive?

15 MR. FREIDIN: It's the source of the  
16 information.

17 MR. KENNEDY: I was referring to the  
18 source of the information, Mr. Campbell. When you used  
19 the words 'the forester identified', I wanted to be  
20 clear in that the information was assembled as part of  
21 the assembly and analysis of background information and  
22 not to leave the impression with the Board that the  
23 forester, or perhaps even the planning team had  
24 undertaken specific surveys to -- or observations to  
25 gather this information.

1 MR. CAMPBELL: Q. Well, I don't think,  
2 Mr. Kennedy, in fairness that was even remotely the  
3 question I asked.

4 MR. KENNEDY: A. Well, did the ...

5 THE CHAIRMAN: Well, Mr. Campbell, with  
6 respect, the Board interpreted your question exactly  
7 the way Mr. Kennedy did.

8 MR. CAMPBELL: Well then, I obviously  
9 phrased it terribly.

10 Q. Mr. Kennedy, am I not correct that  
11 this is an example where the person preparing this plan  
12 has been able to draw from Ministry records and provide  
13 a list for planning purposes of areas by soil  
14 characteristics that are identified as sensitive areas,  
15 excepting that perhaps some of them are not entirely  
16 just soil related?

17 MR. KENNEDY: A. Yes.

18 Q. Thank you. And I take it when areas  
19 are identified as sensitive areas in terms of timber  
20 management planning, it is because there is a concern  
21 about them being sensitive in respect of -- sensitive  
22 to or potentially damaged by timber management  
23 operations; is that fair?

24 A. Yes. Some of these features are such  
25 that they could be potentially damaged by some aspects

1 of timber management.

2 Q. Thank you. Now, the next example I  
3 particularly want to turn to is page 179, and just ask  
4 you to confirm my understanding. Having looked at this  
5 excerpt from the Magpie forest, what this is is a  
6 generic area of concern analysis having to do generally  
7 with fragile sites; is that correct?

8 A. Yes, it is.

9 Q. And there are -- in the course of the  
10 Magpie analysis, if we can go on just a few pages.

11 Unfortunately our photocopies provided in  
12 the copies in the Environmental Assessment Branch there  
13 is clearly some words missing at the top of each of  
14 these pages under the heading Environmental Analysis  
15 Checklist, so I can't tell you exactly what the  
16 particular checklist related to in terms of which area  
17 of concern, but I can tell you that the checklist was  
18 part of the area of concern package.

19 And if we go over, for instance, as far  
20 as page 186 with respect to fisheries and access  
21 alternatives, the checklist is used to evaluate on the  
22 next page a preferred alternative and I assume other  
23 alternatives in associations with this.

24 Is this not a use of the checklist in  
25 precisely the way that Mr. Lindgren suggested to you



1       that checklist could be used?

2                   A. It is use of a checklist. It's the  
3 first time that I have seen that used in this fashion  
4 in all of the plans that I have looked at.

5                   I wouldn't comment if it's the kind of  
6 specific recommendation that Mr. Lindgren is referring  
7 to. In regards to areas of concern, I recall him more  
8 specifically dealing with access roads and use of this  
9 sort of a checklist in the planning process of primary  
10 and secondary access roads, as I recall.

11                  Q. All right. Now, Mr. Kennedy, we have  
12 seen how the Magpie example at page 179, the area of  
13 concern planning approach, can be used to cover general  
14 concerns such as fragile sites.

15                  And, Mr. McNicol, I guess I would like to  
16 turn then to you. And can I take it from your evidence  
17 in direct that you intend to use the area of concern  
18 and supplementary -- area of concern process and  
19 supplementary documentation process in a similar way in  
20 dealing with moose habitat?

21                  And I draw that conclusion from your  
22 testimony at Volume 138 on September 20th, pages 23517  
23 and, in particular, lines 17 to 23. I refer you  
24 particularly to the lines because it's sort of mixed up  
25 with some discussion of what might go in the text in

1 front of Table 4.12.

2 MR. KENNEDY: A. The line numbers again,  
3 please?

4 Q. 17 to 23. And I just want to be  
5 clear that you are giving consideration to -- although  
6 I understand it has not yet come forward, you are  
7 giving consideration to -- no, sorry, I should back up.

8 I gather that you have settled that you  
9 will be using supplementary documentation in accordance  
10 with the AOC planning process with respect to general  
11 moose habitat considerations?

12 MR. McNICOL: A. If I may have a minute  
13 just to read this.

14 Q. Sure.

15 A. Mr. Campbell, could you repeat your  
16 question then, please?

17 Q. Yes. And perhaps I will refer you  
18 directly to the line. The question that you were asked  
19 on line 17 at that page was:

20 "Q. Would the documentation which would  
21 be produced include the production of  
22 supplementary documentation which  
23 complied with Appendix I -- or pardon me,  
24 complied with the area of concern  
25 planning process, particularly the

1 documentation requirements as described  
2 by Mr. Bisschop?"

3 You answered:

4 "A. Yes, they would."

5 That is all in relation to the area of  
6 concern planning process, and then the Chairman asks  
7 the question:

8 "When you say this hasn't been agreed  
9 on, I take it the reporting methodology  
10 hasn't been agreed on. When are you  
11 going to formalize your position on  
12 that?"

13 You then tossed that grenade to Mr.  
14 Freidin -- or, Mr. Kennedy. Mr. Freidin comes in.

15 But I took that reference of the  
16 Chairman's, when you say this hasn't been agreed on, as  
17 referring to a slightly earlier discussion on that page  
18 where you said at page 11, and again this -- or,  
19 rather, you said at line 11:

20 "...and, again, this is something that  
21 has not been finalized, but there would  
22 be a preface to Table 4.12 that would  
23 explain the rationale for the application  
24 of the guidelines...but there would be  
25 documentation."



1                   You were then asked specifically if the  
2                   area of concern documentation would be used for moose  
3                   habitat, and you answered:

4                   "A. Yes."

5                   And then the Chairman went back to  
6                   clarify what was going to be in front of 4.12. Have I  
7                   read all of that correctly?

8                   A. You have it correct, yes.

9                   Q. So that that, again, is an example  
10                  where the area of concern planning process is going to  
11                  be used for a more general habitat concern, for a more  
12                  generalized value, if you will?

13                  A. Perhaps before I answer that  
14                  question, you could give me an example of exactly what  
15                  you are speaking of. I am not sure that you have  
16                  captured this conversation and the concepts in there  
17                  correctly, but if you could give me an example it would  
18                  help.

19                  Q. Well, because you haven't brought it  
20                  forward to tell us what it is you are doing, I have a  
21                  little trouble making an example.

22                  But what I am asking you to confirm is  
23                  that this is another -- we have seen how Magpie they  
24                  use the area of concern planning process to deal with  
25                  fragile sites, and I am just -- which is a more wide

1 spread concern, it's not just one little place for this  
2 particular area of concern analysis. What I am  
3 suggesting to you is that this is another example in  
4 the area of moose where the area of concern planning  
5 process is being used in a way that is not just  
6 site-specific to one particular location, it's a more  
7 generalized value. Is that fair?

8 A. Okay, yes. When I was talking about  
9 a preface to 4.12, in essence what I was speaking of  
10 with regard to moose habitat was the rationalization or  
11 the rationale, if you will, for how the moose  
12 guidelines were being applied in that particular timber  
13 management plan given the kind of range conditions that  
14 they had existing on that particular operating plan.

15 So it was in essence an introduction as  
16 to what the reviewer might expect to see with regard to  
17 treatment of specific concerns vis-a-vis moose habitat  
18 in Table 4.12 and in supplementary documentation.

19 Q. Okay. But in terms of specifically  
20 the supplementary documentation, which you answered  
21 that question that started at line 17, went on to line  
22 23 at page 23517, there is no clarification required to  
23 that simple question and answer?

24 A. Oh no, the supplementary  
25 documentation process does take place for certainly

1 moose AOCs.

2 Q. And those moose AOCs will relate, as  
3 I understand it from that discussion, to general  
4 habitat considerations?

5 A. No, the AOCs that you see in Table  
6 4.12 will be specific, they will be site-specific.

7 Q. All right. It's just what moose  
8 habitat may well extend over a considerable area. So  
9 when you say 'site-specific', we are just talking about  
10 a considerably larger site than is normally the case in  
11 say, for instance, for an eagle's nest?

12 A. Well, I don't know how I can help you  
13 with this, Mr. Campbell, except to say that there will  
14 be geographic identification of the areas that are  
15 being treated in a certain manner for moose to protect  
16 a value for moose, the site will be described.

17 THE CHAIRMAN: Obviously, Mr. Campbell,  
18 it would be a larger area than for an eagle's nest.

19 MR. CAMPBELL: And I think I am beating a  
20 dead moose at this point, which is what Mr. McNicol is  
21 anxious to do next -- well, it's not moose; is it?

22 MR. McNICOL: It's the other brown  
23 creature on four legs.

24 MR. CAMPBELL: Having been put under  
25 these kinds of pressures occasionally by people on my



1 side of this table, I understand the difficulties your  
2 counsel finds himself in today.

3 Q. Mr. Kennedy, is it also fair to say  
4 that there is an understanding that there will be an  
5 area of concern planning process description added into  
6 the Timber Management Planning Manual in a sort of --  
7 in a complete section, as opposed to now where it's  
8 scattered, it's mentioned in various parts of the TMPM,  
9 along the lines of moving Appendix 1 of the EA into the  
10 TMPM, although, as I understand it, you haven't quite  
11 decided how to do it.

12 There is going to be a consistent  
13 complete description of the area of concern planning  
14 process added to the TMPM; is that correct?

15 MR. KENNEDY: A. That's correct.

16 Q. All right. Now, I want to turn to  
17 the two road planning tables and maybe we can just get  
18 through them very quickly.

19 MR. BISSCHOP: A. Excuse me, Mr.  
20 Campbell. Mr. Chairman, I would like to make one  
21 point. There was reference made to the area of concern  
22 documentation for the Magpie Forest including the  
23 checklist.

24 Without getting into any of the details  
25 of it at all, I should advise that although that plan

1 has been approved, it has been approved conditionally  
2 in that all of the area of concern planning had to be  
3 redone. We required within the period of a year after  
4 the approval of the plan that specific prescriptions be  
5 produced for every area of concern.

6 The approach that they used on the Magpie  
7 Forest was not to produce specific prescriptions for  
8 each area of concern. There are a lot of details about  
9 it all, but I didn't want you to get a misimpression by  
10 reviewing the information here about that.

11 Q. Well, thank you, Mr. Bisschop. It is  
12 fair to say though that at the time it came forward it  
13 represented in the planning team's view presumably an  
14 approach that they wished to recommend?

15 A. It certainly did, and the review of  
16 the plan was that that approach was unacceptable.

17 Q. All right. So that each of these  
18 fragile sites then presumably turned into an individual  
19 area of concern; would that be correct?

20 A. I can't comment on the details, but I  
21 would assume that any area of concern identified for  
22 whatever value will have a specific prescription  
23 produced.

24 THE CHAIRMAN: When you say it's a  
25 approved conditionally, does that mean that the

1 activities can be carried out prior to final approval?  
2 What does it mean? Is that like a contingency type  
3 situation?

4 MR. BISSCHOP: I can't recall the  
5 specifics, but I believe at the time we approved the  
6 plan any operations carried out in the first year of  
7 the plan, the area of concern planning would have been  
8 done to the level of detail required and would have  
9 been reflected in the first annual work schedule.

10 We gave the district then a year in which  
11 to complete the remainder of the area of concern  
12 planning for--

13 THE CHAIRMAN: The rest.

14 MR. BISSCHOP: --the rest.

15 THE CHAIRMAN: So nobody is getting  
16 shortchanged, so to speak, in terms of what will happen  
17 in the first year under this conditional approval.

18 MR. BISSCHOP: That is my understanding.

19 MR. MARTEL: Can I ask how, if  
20 instructions had been given to the planning teams  
21 that - if I read you correctly - they could have been  
22 so far off base?

23 MR. BISSCHOP: Excuse me, I didn't hear  
24 you.

25 MR. MARTEL: Instructions had been given



1 to the team as to how -- the planning team how to  
2 prepare a plan, how they could be so far off base in  
3 going the route they did?

4 MR. BISSCHOP: I find it as amazing as  
5 you do, Mr. Martel.

6 MR. CAMPBELL: Q. Well, Mr. Bisschop, we  
7 have seen in the plans we have looked at quite a lot of  
8 this generic prescription approach where, for instance  
9 in the fisheries habitat, the prescriptions are laid  
10 out that on this kind of a lake when you have got this  
11 kind of information you can do these kinds of things,  
12 and it basically summarizes the fish habitat  
13 guidelines. And it seems -- and in fact in the Timber  
14 Management Manual on page 109 there is reference to  
15 generic prescriptions for areas of modified operations.

16 I mean, I can understand why the people  
17 might well take this approach. It seems to me that if  
18 it was being sensibly applied that this is what we are  
19 going to do. We have a lake, we have got this  
20 information, we are going to do this and that, that  
21 that might well be quite a sensible approach. And it  
22 would say that --

23 MR. BISSCHOP: A. Certainly.

24 Q. And would say that Mr. Chairman's  
25 concern about producing thousands of pages of

1 documentation might well be addressed by effective  
2 generic prescriptions.

3 A. Certainly, and the premise there is  
4 that you have all the information that allows you to  
5 say in "x" "y" and "z" situations I have exactly the  
6 same conditions occurring and, therefore, the same  
7 prescription can apply.

8 The premise is that all of the  
9 information is there and known and you can produce a  
10 prescription that meets those same conditions in a  
11 number of locations.

12 THE CHAIRMAN: And that is quite  
13 acceptable to do it in that fashion under the planning  
14 process that you are putting forward.

15 MR. BISSCHOP: Exactly. And the simple  
16 example I use, of course, is something like an osprey  
17 nest. If we have 10, 20 occurrences, the prescription  
18 is normally the same.

19 THE CHAIRMAN: All right. But what you  
20 are suggesting I guess as well, in the Magpie situation  
21 they didn't have the information to correlate  
22 similarities amongst various concerns and, therefore,  
23 you are forcing them to do each one separately?

24 MR. BISSCHOP: Certainly the big part of  
25 problem was the information base, yes.

1 THE CHAIRMAN: Okay.

2 MRS. KOVEN: Excuse me. In the Red Lake  
3 Plan we didn't see any combining of values that way in  
4 the area of concern documentation sheets; did we?

5 MR. BISSCHOP: Sorry, to understand your  
6 question, you didn't see...?

7 MRS. KOVEN: We didn't see that kind of  
8 application for each value identified, each area of  
9 concern there was a separate description?

10 MR. MULTAMAKI: No, you didn't see it in  
11 the fashion that I think you are thinking of where  
12 there were generic prescriptions developed that  
13 combined areas of concern that were the same in nature.

14 What you did see in the Red Lake Plan is,  
15 for example, area of concern No. 29 had I think four --  
16 three or four blocks, or three or four separate  
17 geographical locations along that lakeshore.

18 The prescription was exactly the same for  
19 those three areas. Those were combined to create one  
20 area of concern. They could have, in theory, been  
21 handled by three separate areas of concern with exactly  
22 the same prescription, both the 0-120 and so on.

23 THE CHAIRMAN: Mr. Kennedy, is the  
24 rewritten planning manual dealing with the section on  
25 areas of concern going to contain some kind of



1 descriptive wording explaining that the documentation  
2 may be handled in that fashion?

3 MR. KENNEDY: Yes, it would.

4 THE CHAIRMAN: So that will make it clear  
5 to somebody reading the manual, that if they have  
6 values of a similar nature with the same level of data,  
7 et cetera, and the same prescription would normally be  
8 applied, they can be handled in terms of the  
9 documentation dealing with that concern in a generic  
10 fashion; is that correct?

11 MR. KENNEDY: Yes.

12 MR. CAMPBELL: Q. And, as I understand  
13 it, the key to this is very close similarity between  
14 the individual values or geographic areas being looked  
15 at and similar levels of information; is that correct?

16 MR. KENNEDY: A. Yes, and by levels of  
17 information, is knowledge of -- a level of knowledge of  
18 the conditions that exist in the field to allow you to  
19 group the areas together.

20 Q. All right. But the grouping process  
21 is entirely dependent on there being a high degree of  
22 similarity between what is grouped?

23 A. Yes.

24 Q. Is that correct?

25 A. Yes.

1 Q. Mr. Bisschop?

2 MR. BISSCHOP: A. Absolutely.

3 Q. All right. And that presumably will  
4 be specified in the material as well, which I guess we  
5 will see eventually?

6 MR. KENNEDY: A. Yes.

7 Q. All right. Mr. Bisschop, if I could  
8 take you back to 179 on Magpie, page 179 in Exhibit  
9 911.

10 Is this in fact the example you are  
11 talking about where there was a problem because  
12 under -- if you look down towards the bottom of the  
13 page under proposed mitigation it says the following:

14 "Each identified "fragile sites" site  
15 will be assessed to determine whether  
16 select harvesting operations can be  
17 undertaken without adversely impacting on  
18 the site."

19 And, I mean, there is various discussions  
20 of fragile site characteristics here, but am I correct,  
21 would that be an example of where you would want --  
22 where because each site has to be looked at on its own  
23 merits, you don't like the generic prescription?

24 MR. BISSCHOP: A. It certainly  
25 exemplified the problem. What we are saying is,

1 determine that in the preparation of your plan. Don't  
2 put it off, make the determination that where those  
3 conditions occur and make the prescription in the plan.

4 THE CHAIRMAN: So if they had gone out in  
5 the first instance looked at the sites on the ground,  
6 came to the conclusion that they were in fact similar  
7 and could be treated in a similar fashion by way of  
8 prescription, then they could have done it generically?

9 MR. BISSCHOP: My only qualifier to that,  
10 Mr. Chairman, is it's not necessary that they have to  
11 go to the site on the ground. However they might  
12 determine similar characteristics, yes.

13 THE CHAIRMAN: Okay.

14 MR. CAMPBELL: Q. If they had had  
15 sufficient information in their files, for instance, to  
16 determine that?

17 MR. BISSCHOP: A. Correct.

18 Q. All right. All right. And, again,  
19 Mr. Kennedy, I would just ask you to confirm that it is  
20 planned to move a description of the roads planning  
21 information or roads -- a description of the roads  
22 planning process into the Timber Management Planning  
23 Manual, something along the lines of Appendix 2 from  
24 the EA?

25 MR. KENNEDY: A. Yes, that's correct.



1 Q. And in the form that we had put to  
2 you which are pages 35 and 36 of Part 1 of Exhibit 911,  
3 do I take it that, Mr. Bisschop, subject to the same  
4 qualification that you have made with respect to  
5 monitoring effectiveness and with one other change;  
6 that is, to remove the five-year corridor line from  
7 primary roads at the top of the page, that with those  
8 cautions, these are representative of the kinds of  
9 topics that are intended to be addressed in the tables  
10 which you propose to put forward by December 15th?

11 MR. BISSCHOP: A. Yes, they are the kind  
12 of topics. One minor comment I would make is halfway  
13 down the page where you see the headings Use Management  
14 Strategies and Required Mitigation.

15 Q. Yes.

16 A. I'm looking at page 35.

17 Q. Yes.

18 A. I would see that the discussion of  
19 those two subjects are actually occurring under the  
20 analysis for each of the alternatives.

21 Q. Okay.

22 A. Do you understand?

23 Q. Yes. Just in terms of content, that  
24 they are not talking any change in content, it's how  
25 you see the preferable way to put it into the form?

1                   A. Yes, exactly. The point being that  
2                   you would want to look at the subject of use management  
3                   and mitigation for each of your alternatives as a  
4                   contributing factor to your decision.

5                   Q. Absolutely. That is a definite  
6                   improvement. I guess my final question to you, Mr.  
7                   Bisschop.

8                   We did see some examples where there was  
9                   a separate form for use management strategy and  
10                  strategies, and I take it from your agreement with this  
11                  approach that you feel that analysis of alternative use  
12                  management strategies can be accommodated without the  
13                  paper burden of an additional form. Would that be  
14                  fair?

15                  A. Yes, it's possible. I am aware of  
16                  the form used in the Sudbury District and they went to  
17                  a level of detail - I am not familiar with all of the  
18                  contents of it - but a level of detail in looking at  
19                  the question of use management which we will have to  
20                  look at in terms of making it a universal requirement.

21                  Q. All right. And, again, am I correct  
22                  in understanding that there will be consideration of  
23                  alternate use management strategies; for instance,  
24                  alternatives that might involve gating, alternatives  
25                  that might avoid the need for a gate, matters of that

1 type?

2 A. Yes. For any road alternative we  
3 will look at that subject of use management and there  
4 may be consideration of alternative use management  
5 strategies for any road, yes.

6 Q. You say there may be. Are there  
7 expected to be a look at alternative use management  
8 strategies? Is that something that you encourage or  
9 want to see done?

10 A. The reason I hesitate is I am not  
11 sure we have set it out as a requirement, but I would  
12 expect that any time a use management strategy for a  
13 road is put forward there is consideration of, in the  
14 development of that, of optional ways of addressing the  
15 problem that use management will address.

16 Q. So you do expect the question of  
17 alternative use management strategies to be addressed  
18 and you haven't quite formulated exactly where it fits  
19 in all of this yet. Is that fair?

20 A. We expect it to be addressed, I can't  
21 say that we formalized exactly how that should be done.

22 Q. Already. And, in fact, am I not  
23 correct that that is a requirement of the Timber  
24 Management Planning Manual that alternative using  
25 management strategies be considered?



1           A. Again, it's a requirement that use  
2 management strategies be developed for every new road.  
3 I would have to check on the specific reference to see  
4 whether or not it says in the development of that use  
5 management strategy, look at alternatives.

6           MR. FLEET: A. Mr. Campbell, the  
7 important point is that, and why we might have ended up  
8 in certain districts with a use management strategy.  
9 The important point is that we ended with a use  
10 management strategy for a road, and through the  
11 implementation of this process that, in cases, wasn't  
12 occurring at the outset; it now occurs.

13           In my experience there are a number of  
14 roads planned where there is no controversy and there  
15 is simply the identification of a single use management  
16 strategy and there need only be one considered, I  
17 think.

18           In terms of mitigating for other  
19 stakeholders or whatever, the need to identify two or  
20 three for the sake of that is not apparent on numerous  
21 roads in the province.

22           Q. Well, with respect, Mr. Fleet, I  
23 think Mr. Bisschop has agreed that consideration of  
24 alternatives is a fundamental factor involved in  
25 environmental planning. I would also draw your

1 attention to page 15 of the Timber Management Planning  
2 Manual which reads the second paragraph as follows:

3 "For each primary and secondary access  
4 road a use management strategy is also  
5 developed. A use management strategy  
6 will be based principally on  
7 consideration of the other identified  
8 resource values which require protection  
9 within specific areas of concern which  
10 are traversed by and/or are in the  
11 vicinity of the particular road.  
12 Various options for managing the use of  
13 access roads must be considered..."

14 And it gives a number of examples:

15 "... (road closure, use restriction to  
16 specific classes, non-maintenance or  
17 abandonment after the intended use)."

18 So is it not fair to say that the Timber  
19 Management Planning Manual on its face requires options  
20 to be considered?

21 A. It may be a very subtle point, but  
22 the consideration of options versus the presentation of  
23 alternative use management strategies may be two  
24 different things. I will concede to Mr. Bisschop on  
25 this one, sorry.

1 Q. Mr. Bisschop, you had something you  
2 wanted to add?

3 MR. BISSCHOP: A. I think when I  
4 addressed this subject a few minutes ago I said that I  
5 didn't believe we had formally set out a requirement  
6 for it. This is as close to setting out a requirement  
7 as --

8 Q. Well, isn't it sort of what 'must'  
9 generally means, various options must be considered?

10 A. Yes, they must be considered. It may  
11 be that you only advance one upon considering those,  
12 yes.

13 Q. All right. So all we are arguing  
14 about is whether you have to document the options that  
15 were considered, not whether they were to be  
16 considered.

17 A. That's right, exactly.

18 Q. All right, thank you. All right.

19 Now --

20 THE CHAIRMAN: There is no way of really  
21 knowing that options were considered and certainly  
22 which options were considered unless there is some  
23 document requirement; is that the case?

24 MR. CAMPBELL: It certainly would be our  
25 view, Mr. Chairman.



1                   THE CHAIRMAN: And you are suggesting,  
2                   Mr. Bisschop, that even though you consider them and  
3                   even though nobody else knows what you considered  
4                   because it's not documented, that nevertheless  
5                   signifies that options were looked at?

6                   MR. BISSCHOP: I think that would be my  
7                   view, that in any advancement of a use management  
8                   strategy for a road there will be reasons behind that  
9                   use management strategy that has been chosen.

10                  THE CHAIRMAN: And you are suggesting  
11                  that you don't necessarily have to put those reasons  
12                  down?

13                  MR. BISSCHOP: I think I would go as far  
14                  as to say, currently there is not a requirement  
15                  direction to do that.

16                  MR. FLEET: And if I could add the point  
17                  I was not very effectively making was, with respect to  
18                  the earlier part of that paragraph there are numerous  
19                  roads where there may not be other stakeholders  
20                  impacted.

21                  THE CHAIRMAN: I know, but why don't you  
22                  just say in one line: It is not necessary to consider  
23                  in any degree of depth other options because no other  
24                  stakeholders are impacted?

25                  Just to indicate that you addressed your

1 mind to the fact that there is no problem other than  
2 going with the one use strategy and that is why you are  
3 going with it, but at least people know that you  
4 considered the fact that you should be going only one  
5 way.

6 MR. FLEET: I would have no difficulty  
7 with that. I was having difficulty with the idea that  
8 we might have to identify alternative use management  
9 strategies themselves when really there was only one  
10 and there weren't any other concerns.

11 THE CHAIRMAN: No, that would seem to be  
12 a waste of time and resources if there is no impacts  
13 that you are trying to mitigate by considering  
14 seriously other options.

15 MR. FLEET: And that was my concern.

16 MR. CAMPBELL: And in Environmental  
17 Assessment Act terms, Mr. Chairman, that just amounts  
18 to saying that you don't have to consider unreasonable  
19 alternatives.

20 THE CHAIRMAN: And then try and figure  
21 out what unreasonable means.

22 MR. CAMPBELL: Sure, and that is a  
23 question on occasion with which people might be a  
24 little bit interested.

25 Q. All right. Thank you, gentlemen, on

1 this matter of planning records. We will await with  
2 interest the unveiling of the tables, forms and  
3 instructions and we will see you again on this matter  
4 in Panel 17, as I understand it. Is that correct?

5 MR. BISSCHOP: A. I believe you will see  
6 me. I don't know about the rest.

7 MR. FREIDIN: I think I am going to  
8 volunteer Mr. Kennedy to return.

9 MR. CAMPBELL: 'Make my day', this falls  
10 into?

11 Q. All right. I think, Mr. Multamaki, I  
12 am going to spend some time with you now on some  
13 aspects of the Red Lake Plan where we've had a little  
14 bit of concern that we would kind of like to understand  
15 what is going on, and at the risk of revealing our  
16 ignorance, we are going to see if we could have some  
17 understanding of what is going on.

18 As I understand it, in the Red Lake Plan  
19 every stand allocated has a renewal prescription on it;  
20 is that correct? It's all covered in Table 4.11, every  
21 stand that is allocated for harvest for normal  
22 operations?

23 MR. MULTAMAKI: A. I think you are  
24 referring to the stand listings and the relationship  
25 back to the silvicultural ground rules and that bar



1 chart.

2 Q. I am just asking a simple question.  
3 As I understand it, every area that is allocated for  
4 harvest has a renewal prescription associated with it?

5 A. That was the intent, yes.

6 Q. Well, is that what was done?

7 A. I think I said yes.

8 Q. Well, there is some kind of a  
9 difference between intentions and what was done, as we  
10 all should know.

11 A. I guess the thought was, is that  
12 given the administrative situation that sometimes  
13 occurs there may be one stand out there that there was  
14 a typo error or whatever, and I am sure you would point  
15 that out to me.

16 Q. No, no, no, I am not interested in  
17 that. Typose we have no concerns of. All right. So  
18 just to deal simply with my question, every stand  
19 allocated has a renewal prescription associated with  
20 it?

21 A. Yes.

22 Q. And Table 4.19 in the plan is a  
23 forecast of renewal and maintenance operations; am  
24 correct in that?

25 A. Yes, it is.

1                   Q. Now, am I correct that the  
2 instructions to Table 4.19 which are found at page 96  
3 of the Timber Management Planning Manual say the  
4 following, they state that:

5                   "Areas that are going to be harvested  
6 that are not expected to regenerate  
7 naturally are not included on the  
8 tables."

9                   Is that correct?

10                  A. Yes.

11                  Q. And I would suggest to you then that  
12 given that there are these areas that are going to be  
13 harvested that are not expected to regenerate  
14 naturally, that it would be useful to have in the  
15 Timber Management Planning Manual a table which  
16 specifically addressed that matter.

17                  And so we have drawn one up and I would  
18 like to distribute it to you and then ask you some  
19 general questions about it before we get to the  
20 components of the table.

21                  MS. SEABORN: (handed)

22                  MR. CAMPBELL: Mr. Chairman, if this  
23 could be given the next number in our binder, I believe  
24 it's...

25                  THE CHAIRMAN: 37.

1 MR. CAMPBELL: 37.

2 Q. Now, Mr. Multamaki, the idea of this  
3 table is to identify those areas where regeneration to  
4 commercial tree species is not expected.

5 I take it you would agree with me that it  
6 is not part of the current planning requirement to  
7 identify areas which are harvested but are not being  
8 expected to regenerate naturally to commercial tree  
9 species. Am I correct in that?

10 We have looked through the plan, we can't  
11 find, of the parts of table -- of the whole area  
12 allocated for harvest, we know from Table 4.19 that  
13 there is an area where it's not expected that there  
14 will be regeneration to commercial tree species, and  
15 for the life of us we can't find out where that area  
16 is, based on the information in the plan.

17 Now, are we missing something?

18 MR. MULTAMAKI: A. No. The only reason  
19 I am hesitating is whether or not that comparison can  
20 be made between the tables; i.e., comparing the harvest  
21 cut to the regeneration tables and making the  
22 assumption that what is left over is in, or at least a  
23 part of it is in that classification that you are  
24 talking about.

25 Q. Well, I mean, if we need something



1 else to make the numbers line up we would be delighted  
2 to know about. What we are particularly concerned  
3 about, though, is identifying the areas that Mr. Hynard  
4 referred to in, I think it was Panel 11, as cut and  
5 walk away. There was an exhibit that identified that  
6 area generally.

7 MR. FREIDIN: He didn't say to cut and  
8 walk away, it did not regenerate to commercial tree  
9 species, I'm sorry.

10 MR. CAMPBELL: Could we have a moment.

11 MR. FREIDIN: For instance, he described  
12 cut and walk away as would include areas where you went  
13 in and did a partial cut and you couldn't do any  
14 regeneration because of the inoperability of the area  
15 and all the other tree species in the way.

16 His evidence was quite clear that they  
17 regenerated to commercial tree species and, in that  
18 example, it was poplar.

19 MR. CAMPBELL: All right. What we are  
20 referring to, Mr. Freidin, is Mr. Hynard's evidence in  
21 direct in Volume 97, page 16294 where he's talking  
22 about three areas in a graph that is identified as  
23 534B.

24 The three areas are natural regeneration,  
25 artificial regeneration, and that's the way he

1 describes the third area:

2 "The third area, the area in white at the  
3 top, is the gap between the areas  
4 regenerated by natural and artificial  
5 methods, being the two slices on the  
6 bottom, for commercially preferred  
7 species and the harvest."

8 So the gap between natural and artificial  
9 methods for commercially preferred species on the one  
10 hand and the harvest on the other, that is the gap we  
11 are talking about.

12 This is the area he says that one hears  
13 sometimes referred to as the 'cut and walk away'. It's  
14 cut and walk away in the sense that it's harvested but  
15 no regeneration treatments are carried out on the  
16 cut-over.

17 MR. FREIDIN: Exactly. He was talking  
18 about where renewal treatments occurred and that graph  
19 showed that there were areas where treatments occurred  
20 which would be a strip cut, for example.

21 The other areas which were cut and walk  
22 away are areas where there was no renewal treatment,  
23 there is -- there was no artificial regeneration and  
24 there was no natural regeneration treatment like a  
25 strip cut or a block cut.

1                   The other area he did not say that they  
2 would not regenerate to a commercial tree species.

3                   MR. CAMPBELL: Well, what else do I  
4 understand from a gap between areas regenerated by  
5 natural and artificial methods for commercially  
6 preferred species and the harvest?

7                   MR. FREIDIN: I don't think you  
8 understand the evidence and I think maybe Mr. Kennedy  
9 can help you.

10                  MR. CAMPBELL: Q. Mr. Kennedy, is it the  
11 evidence of the Ministry of Natural Resources that all  
12 areas cut will regenerate to commercial tree species on  
13 a predictable time frame in a rotation age or in a  
14 predictable time frame, whatever timing consideration  
15 you want to built in to it, and I'm looking of course  
16 at the sustained yield objective.

17                  I thought it was pretty well established  
18 that there were areas where it was cut where it was not  
19 expected that the area would regenerate to commercial  
20 tree species in a predictable time frame. Is that not  
21 the case?

22                  MR. KENNEDY: A. Well, if I can cut  
23 through some of this and, without dancing around, the  
24 difference that -- the difference in understanding that  
25 we are having here is in relation to the free to grow



1 period.

2 The areas that are included as natural  
3 regeneration are those areas that are expected to  
4 return to commercially preferred species but by natural  
5 methods within the established free to grow time for  
6 that area.

7 THE CHAIRMAN: Eight years or so?

8 MR. KENNEDY: In the neighbourhood of 7  
9 to 15 years, yes.

10 There are areas that, in the judgment of  
11 the forester, that are not treated artificially. And  
12 so as not to mislead anyone, they are not included as  
13 natural regeneration areas because the view is that  
14 they will not be regenerated within free to grow time.  
15 As a result, those areas are not shown as forecasted to  
16 regenerate by natural regeneration methods.

17 Mr. Campbell is correct in his line of  
18 questioning in that we do not record the level of those  
19 areas in the timber management plan now, but it is the  
20 evidence of the Ministry of Natural Resources that  
21 those areas do return, are regenerated to commercial  
22 tree species, it takes a little longer and --

23 THE CHAIRMAN: And not necessarily of the  
24 species that was cut?

25 MR. KENNEDY: And not necessarily the

1 species that is cut, but that is possible, it may take  
2 longer to do that; it may regenerate to a different  
3 species as well.

4 MR. CAMPBELL: Q. But, Mr. Multamaki, in  
5 every case in your Table 4.11 you have a target species  
6 for that working group that you are cutting; do you  
7 not?

8 MR. MULTAMAKI: A. Yes, there is a  
9 target species, that is the proposed working group.

10 Q. All right.

11 MR. KENNEDY: A. If I could interject on  
12 that if you would allow me. He used a target species  
13 for each of the renewal treatments that he is expecting  
14 to carry out so, as such, when the silvicultural ground  
15 rules are applied there is a target species and a  
16 target stocking level to be achieved for both the  
17 artificial and the natural methods.

18 THE CHAIRMAN: And the ground rules set  
19 out the various options you have for treatment?

20 MR. KENNEDY: Yes, they do.

21 MR. CAMPBELL: Q. Well, let me back up  
22 here, because I think we can just change the title of  
23 the table and achieve exactly what I am looking for and  
24 I'll come back to that in a moment.

25 I mean, we are talking -- I thought by

1 saying regenerate naturally to commercial tree species  
2 I was going farther than what the table said. I mean,  
3 the table at page 96 states clearly there will be areas  
4 which are to be harvested but which are not expected to  
5 regenerate naturally are not included.

6 Obviously, whoever drew up this table  
7 expected that there would be areas that were not  
8 expected to regenerate at all?

9 MR. KENNEDY: A. Not the case. The  
10 table is giving instructions to people, perhaps not as  
11 clearly as you would like to see it, but the  
12 instruction is given to people to be honest with their  
13 expectations based on their experience, et cetera, as  
14 to the level of regeneration that can be expected on  
15 that unit and to record the artificial treatments that  
16 they are proposing and their estimate of the amount  
17 that will regenerate naturally based on the conditions  
18 that they have encountered.

19 But not to balance the table against  
20 total area that has been depleted by harvest or natural  
21 means, but to be honest and put forward the best  
22 estimate -- best forecast of what the renewal -- the  
23 overall renewal will be and within the free to grow  
24 time frame which we have outlined as the benchmark time  
25 frame that we use to judge stands against for return to



1 the forest resource inventory.

2 Q. And am I correct that there is no way  
3 in the plan to tell where that area is, where those  
4 things are not -- those standards are not expected to  
5 be met?

6 A. Yes, Mr. Campbell, I have agreed with  
7 you already on that point.

8 Q. All right. And is it also -- I would  
9 also ask you to -- and what we had understood from Mr.  
10 Hynard's testimony, and I'll give you another page  
11 reference which is 16303 in the same volume, where he  
12 states:

13 "Unfortunately, natural methods..."

14 A. Line, please?

15 Q. Volume?

16 A. Line, please?

17 Q. The line is 19. He states quite  
18 clearly at page 16303 that:

19 "Unfortunately, natural methods will not  
20 produce a satisfactorily regenerated  
21 stand with all species and on all site  
22 types."

23 A. Correct.

24 Q. It seems to me he's being quite  
25 honest that it's not all going to come back to good

1 stuff.

2 A. Oh, Mr. Campbell, he's -- not having  
3 the benefit to read the entire passage here, I believe  
4 Mr. Hynard is just stating the obvious, that natural  
5 regeneration methods cannot be relied upon to  
6 regenerate all species in Ontario on all sites.

7 Q. Well, isn't that though exactly what  
8 Table 4.11 contemplates, you have got target species,  
9 you've got regen treatment.

10 4.11, looking at it on its face, you  
11 would assume this is all going to happen according to  
12 the renewal treatments shown?

13 A. I am going to repeat myself I guess  
14 in this regard in that Table 4.11 in the silvicultural  
15 ground rules is laying out the natural methods that  
16 will be undertaken and the artificial methods and the  
17 objective stocking, a desired stocking level for them.

18 Q. All right. Well, let me give you  
19 another example of where a professional forester has  
20 expressed a view that we might not come back to on  
21 certain sites to merchantable timber.

22 Could you go to page 181 of the material  
23 that we provided Part 2.

24 MR. FREIDIN: It might not be another  
25 forester unless that forester happens to agree with our

1 interpretation of Mr. Hyunard's evidence.

2 MR. CAMPBELL: Well, some forester signed  
3 the Magpie Plan, Mr. Chairman.

4 MR. FREIDIN: That's right. Don't say  
5 it's another forester, that's all.

6 MR. CAMPBELL: Well, isn't it -- I mean,  
7 is this a mythical forester?

8 MR. FREIDIN: No. I think you are  
9 suggesting that some forester in the Magpie came to the  
10 same conclusion as somebody else and I'm saying it  
11 sounds like a difference of opinion.

12 MR. CAMPBELL: All I am suggesting, Mr.  
13 Freidin, is that the written plan -- the Magpie plan is  
14 signed by at least one and maybe more foresters, but at  
15 least one.

16 THE CHAIRMAN: We would hope it's signed  
17 by one.

18 MR. FREIDIN: Nothing turns on it, Mr.  
19 Campbell. Don't worry about my objection.

20 MR. CAMPBELL: Q. All right. If we go  
21 to page 181, you will see - and, again, we're dealing  
22 with fragile sites - you will see a statement under the  
23 effects of implementation.

24 MR. FREIDIN: 181?

25 MR. CAMPBELL: Q. "These sites will not



1                   likely produce merchantable timber in the  
2                   next rotation."

3                   Now, isn't that a clear expectation of  
4                   where somebody is expecting to harvest and they are not  
5                   going to get -- they don't expect to get merchantable  
6                   timber on those sites?

7                   MR. KENNEDY: A. I do read the comment  
8                   that is recorded there on page 181, yes.

9                   Q. So at least there is a real life  
10                  example of where a forester expects that with all of  
11                  the renewal alternatives it either will not likely  
12                  contribute to the production of merchantable timber or  
13                  in fact it will not likely -- well, it's just it will  
14                  not likely produce merchantable timber in the next  
15                  rotation. And what I am suggesting to you is quite  
16                  simple.

17                  A. I am sorry, would you repeat all of  
18                  that. I am not sure I heard you correctly. I want to  
19                  be sure I follow you along here.

20                  Q. I am simply saying that in  
21                  considering renewal alternatives--

22                  A. And I believe --

23                  Q. --for fragile sites in Magpie, the  
24                  statement is made for each alternative considered that  
25                  these sites will not likely contribute to the

1 production of merchantable timber in the next rotation?  
2 Am I not -- isn't that just what the forester has said  
3 quite flatly, he doesn't expect merchantable timber on  
4 these sites?

5 MR. GROVES: A. Mr. Campbell, I might be  
6 able to help on that, in being a forester who worked on  
7 the adjoining management unit, that when he's  
8 talking -- you'll have to excuse me, my mike is alive  
9 this morning -- I can't --

10 THE CHAIRMAN: I would hope so.

11 MR. GROVES: I can't guarantee it, but  
12 from what I know about area, what he is talking about  
13 as merchantable timber in the next rotation, is that he  
14 does not expect a merchantable forest in that next  
15 rotation period.

16 In other words, from the time he cuts it  
17 to rotation period is seven years, he does not expect  
18 the merchantable forest to be there again in seven  
19 years. He's not saying that a merchantable forest will  
20 not be there in 100 years or 110 years, because it  
21 might take longer for that forest to get established.

22 And without talking to the individual  
23 forester, I can't verify that, but from working on  
24 basically the next township over, we expected a similar  
25 kind of situation.

1 MR. MULTAMAKI: A. I should also --

2 Q. All right. Well, I'm sorry, Mr.

3 Multamaki, you wanted to add something?

4 A. I was going to say that you are also  
5 dealing, as I understand it, on the Magpie Forest with  
6 a dimensional saw mill, and with dimensional saw mills  
7 you generally look at merchantability absolutely  
8 differently in that you tend to utilize larger sizes  
9 which is associated with longer growing periods.

10 And it's my impression that the forester  
11 here has interpreted merchantability based on saw log  
12 requirements and not pulp requirements or other  
13 biological requirements.

14 So I really I think that what he's saying  
15 is, it's going to take a little bit longer on these  
16 sites to produce the products that he needs for that  
17 particular dimensional saw mill.

18 MR. DAVISON: A. Mr. Campbell, if I  
19 could just add one more thing as well.

20 Q. Right.

21 A. I don't want to belabour this, but I  
22 think it's probably worth saying, ten years' experience  
23 on the other side of this forest in sites that are very  
24 similar - and Mr. Groves I think talked about  
25 experience on the east side - and I too can agree to



1        what Mr. Groves is saying, is that I have never seen  
2        sites that don't regenerate and I am talking about  
3        sites along the north shore of Lake Superior which I  
4        don't think the Magpie Forest is probably any much  
5        different and that the length of time to regenerate, I  
6        think, is what we are talking here.

7                    Q.   All right.   Now, what you are saying  
8        is that -- I mean, Mr. Freidin last week gave me a  
9        lecture about terminology on this that I have no doubt  
10       broken every rule on by now.

11                   But having to do with regeneration means  
12       something grows back.   Is that -- are we correct in  
13       that understanding; I mean, regeneration doesn't  
14       necessarily mean it's going to be anything useful to  
15       the industry, it just means something grows back.   Now,  
16       have I understood --

17                   MR. CAMPBELL:   Isn't that what you told  
18       me?

19                   MR. FREIDIN:   I am not prepared to be  
20       cross-examined.

21                   MR. CAMPBELL:   Q.   Is that the way that  
22       MNR uses the term; something grows back, and then we  
23       have got regeneration to commercial species, and then  
24       we have got regeneration to commercial species within a  
25       predictable time frame, and then we start getting into

1 kind of sustained yield.

2 MR. DAVISON: A. Well, I wasn't  
3 referring to brush or alders or things like that. So,  
4 yes, I was referring to commercial species.

5 Q. All right. But is regeneration -- is  
6 the use of the word by MNR, regeneration, necessarily  
7 associated with commercial tree species? I had  
8 understood it wasn't.

9 MR. KENNEDY: A. You understood...?

10 Q. It was not. I used to make the  
11 distinction revegetation regeneration and I thought I  
12 was told that that was just causing all kinds of  
13 aggravation and was completely a wrong concept, that  
14 regeneration meant something grew back and then  
15 regeneration to commercial tree species was sort of the  
16 next step up the ladder.

17 Now, have I completely misunderstood  
18 this?

19 A. Okay. Mr. Chairman, if I might  
20 suggest, there are two terms that are important to have  
21 understood here; one is regeneration effectiveness and  
22 the other one is silvicultural effectiveness.

23 And if you would permit me asking, is  
24 this an appropriate time for us to have a break,  
25 because I feel it's an important enough issue, I would

1 not want to confuse Mr. Campbell and there is one  
2 document I would like to check and I will, after the  
3 break, give him my definition of both of those items.

4 Q. All right. Both of those are  
5 effectiveness. You have added effectiveness. My  
6 simple question is: Does the use of the word  
7 regeneration by MNR necessarily imply regeneration to  
8 commercial tree species, and I will leave the time  
9 elements off for the moment?

10 MR. KENNEDY: A. And I feel I want to  
11 give you the other definition, my definition of the  
12 other term so that you have a full understanding of how  
13 we use those items.

14 Q. Okay. And, Mr. Kennedy, just to make  
15 it simple, let's get the terminology straightened out.  
16 Our basic question on this is whether by the use of  
17 this form or something else, whether it isn't a good  
18 idea to have in the plan a new line or some indication  
19 of where this gap occurs between the area that is  
20 allocated for harvest and the areas shown on 4.19 that  
21 is expected to do whatever it's expected to do.

22 There is a difference there and all I am  
23 suggesting to you is: However you define that  
24 difference, don't you think it's a good idea to have it  
25 in the plan?



1                   A. Well, if you would like to discuss  
2                   that suggested table, there are a number of items --

3                   Q. Well, just a minute. Before we deal  
4                   with the particular items just -- I mean, we are not  
5                   attached to the particular items. I am just suggesting  
6                   that, isn't it a good idea to clearly identify on the  
7                   ground where that area is?

8                   A. I think there are a number of  
9                   particular details that you need to understand or at  
10                  least I would like the opportunity to make the Board  
11                  aware, relative to what's contained in Table 4.19 in  
12                  order for them to understand the suggestion that you  
13                  are making and the complications that we would have in  
14                  such a request.

15                  Q. I plan to give you every opportunity  
16                  to do that.

17                  A. Thank you.

18                  Q. I just would ask you - you have  
19                  confirmed that there is no way for anybody else to know  
20                  looking at the plan where that area is - all I'm asking  
21                  you is, why isn't it a good idea simply to say: And  
22                  here's the area where there's an expectation or a  
23                  forecast, like everything else, here's the area?

24                  THE CHAIRMAN: Mr. Campbell, I think we  
25                  should take a break to allow Mr. Kennedy the

1 opportunity to clarify the two definitions. But then  
2 we expect, Mr. Kennedy, you are going to come back and  
3 tell us why it's either impractical to be able to show  
4 where those areas are, or why they are otherwise  
5 appropriately dealt with in the existing tables.

6 MR. CAMPBELL: Or this idea is a good  
7 idea, and perhaps maybe we should know, that is on the  
8 ground.

9 THE CHAIRMAN: Or alternatively if they  
10 aren't, they should be included. So you will come back  
11 with those sort of three considerations and the  
12 definitions.

13 And we will take a break for 20 minutes.  
14 Thank you.

15 ---Recess taken at 9:30 a.m.

16 ---On resuming at 10:05 a.m.

17 THE CHAIRMAN: Thank you. Be seated  
18 please.

19 MR. CAMPBELL: Mr. Chairman, we have just  
20 distributed, and you should find in front of you, a  
21 copy of page 96 of the Timber Management Planning  
22 Manual which we would ask to be marked No. 38 in Part 1  
23 of Exhibit 911.

24 I know Mr. Kennedy had indicated he  
25 wanted to refer to that, it is the instructions for

1 Table 4.19.

2 Just before Mr. Kennedy begins, I should  
3 make it clear that I'm not too worried about wording on  
4 the table that we have distributed, I am not too  
5 worried about its content, we can deal with that in the  
6 negotiation procedure.

7 My question is really quite simple. No  
8 matter what you call it, on the Red Lake Plan, as an  
9 example, there is a difference between the areas that  
10 are allocated for harvest in Table 4.11 and the area  
11 where they expect regeneration. That difference Mr.  
12 Multamaki has identified in his plan. I can give you  
13 the plan page reference number as 1,985 hectares.

14 Now, our question is, we don't really  
15 care what it is called, call it whatever is technically  
16 accurate, all we would ask is that it is important that  
17 the plan identify where that area is expected to occur  
18 either by way of a particular piece of geography or,  
19 alternatively, by way of an FRI working group code,  
20 Sb1, Sb2, et cetera, on Table 4.11. That's the simple  
21 question.

22 I really don't want to get it all  
23 confused in a whole bunch of terminology. It is really  
24 quite a simple question. We have 1,985 hectares that  
25 doesn't turn up, where is it?



1 THE CHAIRMAN: Well, Mr. Kennedy, maybe  
2 you can help us out and tell us.

3 MR. KENNEDY: Well, Mr. Chairman, there  
4 are a number of -- there are a number -- as I say,  
5 there are a number...

6 (adjusting microphone)

7 THE CHAIRMAN: Yes, we got the fact there  
8 is a number.

9 MR. KENNEDY: I think I would like to  
10 start off by talking about the silvicultural and  
11 regeneration question that we left off just after the  
12 break.

13 When I use the word effectiveness, I  
14 perhaps should have been using the word success. When  
15 we speak of a silvicultural success we are referring to  
16 the success of the treatment that we have undertaken.

17 THE CHAIRMAN: Is that turned up at all?  
18 I know it is on, but you seem to be talking more  
19 quietly than you were before the break.

20 MR. KENNEDY: It is on. Can you hear me?

21 MR. CAMPBELL: I can hear you.

22 MR. CAMPBELL: There is a change in  
23 estimate, Mr. Chairman.

24 MR. KENNEDY: Continue?

25 THE CHAIRMAN: Yes, go ahead.

1 MR. KENNEDY: Okay. Silvicultural  
2 success would be a judgment against the silvicultural  
3 treatment that has been undertaken.

4 In the case of regeneration success, it  
5 would be a determination that the area has been  
6 regenerated regardless of the treatment that has been  
7 undertaken. So perhaps the best way to illustrate this  
8 would be by use of an example. If an area had been --

9 THE CHAIRMAN: Just a moment. Mr.  
10 Cosman, and I think some of the others towards the back  
11 of the room, are having trouble hearing. Perhaps we  
12 could turn up the amplifier. Somebody...

13 THE CHAIRMAN: Try again, Mr. Kennedy.

14 MR. KENNEDY: Good morning. Hello, that  
15 sounds better.

16 THE CHAIRMAN: Yes, okay. Thank you.

17 MR. KENNEDY: We are suggesting that  
18 perhaps to use an example would be the best way to  
19 illustrate these two terms.

20 If an area had been aerially seeded to  
21 jack pine and a survey conducted to see the extent to  
22 which jack pine regeneration had been achieved on the  
23 site, and if the results of the survey indicated that  
24 jack pine was established there, we would say that it  
25 was a silvicultural success in that the treatment that

1 was undertaken was successful.

2 If that same area was assessed and the  
3 results were found out to be different in that the jack  
4 pine had not been established but instead poplar had  
5 regenerated on the site, the area would be regarded as  
6 a silvicultural failure but could be judged against the  
7 poplar free to grow standards.

8 And if it was determined that the amount  
9 of poplar that was there and the condition of the  
10 poplar was such that it was acceptable, it would be  
11 viewed as a regeneration success in that the area was  
12 successfully regenerated to poplar, even though the  
13 intent was to regenerate it to jack pine.

14 So in the latter case, we may have a  
15 silvicultural failure but a regeneration success.

16 The manager would then be confronted with  
17 the question as to whether that poplar regeneration was  
18 acceptable for objectives of the particular management  
19 unit.

20 That's an indication of the two terms  
21 that we use. And for further reading, I would refer  
22 individuals to statement of evidence Panel 4, I don't  
23 recall the exhibit number of the Panel 4 statement --  
24 excuse me, Exhibit 135, statement of evidence Panel 4,  
25 and Document 16 which begins at page 173.



1                   Now, Mr. Chairman, I would like to  
2                   address Table 4.19. Table 4.19 is one of a series of  
3                   forecast tables which we looked at only briefly during  
4                   our evidence-in-chief. During that time we had made  
5                   the decision not to look at each one of these tables  
6                   and explore all of the intricacies of them, but now  
7                   that we are into this topic I feel that it's necessary  
8                   to inform you of a number of particular details with  
9                   regards to this forecast of renewal and maintenance  
10                  operations for the five-year term.

11                 Table 4.19 deals with the forecast of  
12                 these operations that will be undertaken during the  
13                 five-year term. The land base on which the forecast is  
14                 made is not solely the area that is being harvested  
15                 during that five-year term. I need to explain this in  
16                 some detail.

17                 First of all, the areas that may have  
18                 been depleted by other means, such as fire or insect  
19                 damage, would be considered eligible for renewal  
20                 treatments. So, as such, Table 4.19 in part can  
21                 reflect the treatments that are to be undertaken on  
22                 areas depleted by natural means.

23                 In addition, there are areas that may  
24                 have been harvested in the previous term which will not  
25                 have received treatment in the previous term which

1 would be carried over into this term.

2 So as example, areas harvested in the  
3 fifth year of a term, up until March 31st of that year,  
4 would not have received renewal treatments. If the  
5 scheduled renewal of the plan was taking place on April  
6 1, a new five-year term, that area would be carried  
7 over and those areas would be forecast for renewal in  
8 the new term.

9 In a similar fashion at the -- in the  
10 forecast, those areas that are to be harvested in years  
11 four and five, portions of them may not be regenerated  
12 within the term, they would not show in Table 4.19 for  
13 that term and would be reflected in the subsequent  
14 timber management plan.

15 Also, there are areas that are referred  
16 to as retreatments and those are areas that may have  
17 been treated in previous terms of the plan -- sorry,  
18 previous terms, would have undergone a survey and  
19 determined to be failures and the treatments --  
20 additional treatments would be required on that same  
21 area.

22 The reason that I am going through this  
23 detail is to advise you that it is a very difficult  
24 task and can be somewhat impossible to keep track of  
25 the total land base and, as such, it is not a fair

1 comparison to look at the allocation tables for the  
2 five-year term which outlines the area that is planned  
3 for harvest and compare it directly to 4.19 and expect  
4 to see the numbers balance.

5 There are additional minor items, such as  
6 the amount of the area that will be contained in roads  
7 and landings that would be proposed within the term  
8 would also influence that total.

9 If I could address the concern raised by  
10 Mr. Campbell in his suggested Table 4.19.1 --

11 MR. CAMPBELL: Q. Just a minute. Before  
12 we get into any discussion of details on the table, I  
13 would like to deal with the conceptual question first.

14 MR. KENNEDY: A. I did also.

15 Q. Mm-hmm?

16 A. I was going to do that without  
17 talking of the details.

18 Q. All right. Well, just before we do  
19 that, could we deal with it sort of in one chunk  
20 because I have some questions about just what you said.

21 What we are dealing with here, Mr.  
22 Kennedy, aren't we dealing with a continuous woodflow  
23 situation?

24 A. Yes, we are.

25 Q. So that while you may be quite right



1 that you have got areas on this table that were  
2 previously harvested, in future tables you are also  
3 going to have areas that don't show up on that table  
4 because of the harvesting you are doing now; is that  
5 correct? I see you nodding, Mr. Multamaki.

6 A. I believe that's what I have just  
7 gone through, yes.

8 Q. All right. So that while it may be  
9 simplistic to carry -- do a straight comparison of a  
10 4.11 number to a 4.19 number, there is that continuous  
11 woodflow situation and the instructions to Table 4.19  
12 make it clear that there are certain types of areas  
13 which are not expected to regenerate and are not to be  
14 included on that table; isn't that correct?

15 A. First of all, 4.11 doesn't contain  
16 any forecasting of numbers.

17 Q. I am talking about the instructions  
18 to 4.19, make it quite clear that it is contemplated  
19 that there are areas which are to be harvested but  
20 which are not expected to regenerate naturally and they  
21 shouldn't influence the numbers in 4.19. I mean,  
22 that's what the instruction says; isn't it?

23 A. Yes, we have agreed with that several  
24 times.

25 Q. Right. Now, I invite you now to deal

1 with our suggestion that there be a table - I don't  
2 want to get tied up in wording or anything else of the  
3 particular example we have put forward.

4 Mr. Freidin has told me I get all of that  
5 terminology confused, he was going to write me a letter  
6 to straighten me all out, I haven't got it yet and  
7 maybe I have done it again.

8 But, in any event, the concept simply  
9 is - and I would like you to deal with the concept,  
10 please - that we know in that woodflow that you have  
11 been asked not to include areas which are to be  
12 harvested but which are not expected to regenerate  
13 naturally.

14 You have dealt with it, Mr. Multamaki, at  
15 page 115 of reference -- it is Reference 3A of Exhibit  
16 14 where you have said the difference -- when you  
17 compare the 4.19 to the planned harvest level you get a  
18 difference of 1,985 hectares. This shortfall occurs in  
19 the black spruce working group and is largely  
20 responsible for the 65 per cent success figure,  
21 regeneration success, that's your terminology.

22 All I am saying is whether you are using  
23 the 1,985 number or you are using the 65 per cent  
24 number, we would just like to see where the other --  
25 where that 1,985 is or where the 35 per cent is or

1 where that difference is, however you define it; all  
2 right? Have I explained myself?

3 A. Yes, you have.

4 Q. All right. Now, isn't it fair to  
5 expect in the plan some indication of what will  
6 happen -- what that area is, either by FRI working  
7 group or geography, and what you expect to happen to  
8 it? Isn't it part of the environment affected too?

9 A. It's certainly part of the land base,  
10 yes, and --

11 Q. And that's part of the environment  
12 affected by this undertaking?

13 A. Yes.

14 Q. Right. Instead of it just sort of  
15 disappearing somewhere, why can't you tell us what's  
16 going to happen to it?

17 A. I have been waiting for you to allow  
18 me that opportunity that you promised to discuss the  
19 concept.

20 Q. Great.

21 A. Is this it?

22 Q. This is it.

23 A. The suggestion you have made is not  
24 new to us; it is something I think that has been in the  
25 minds of the majority of foresters for some time and I



1 know of several individuals who have struggled with  
2 just such a concept and struggled with recordkeeping  
3 systems to track these items.

4 I think the idea has some merit. I'm not  
5 so sure I would readily put my support behind this  
6 particular table, but I do believe that the intent  
7 behind your line of questioning of being able to  
8 forecast, and the forecast is important as it is a best  
9 professional judgment on the information available to  
10 you.

11 Q. That's exactly what I am asking for,  
12 is the judgment?

13 A. The difference between the areas that  
14 are being forecast in Table 4.19 that are expected to  
15 receive -- or that are forecast to receive treatments  
16 and expected to be successful within the normal free to  
17 grow range and the balance of the areas that are --  
18 that we have referred to that are not recorded in 4.19  
19 is certainly something that would be worth pursuing and  
20 has a great deal of merit.

21 Q. Thank you. And I am curious, of  
22 course now dying of curiosity as to -- forget the title  
23 on the table because it is obviously causing problems.

24 Now, I will ask you to reveal the  
25 difficulties or strengths that you see in the

1 particular example we have put forward, all right, and  
2 I have given -- looking at the first two columns, for  
3 instance, is it possible to do that by base map and  
4 stand number or is it better just to use FRI working  
5 group code from 4.11 or both? I could do it by blocks,  
6 I am not wedded to a stand number.

7 A. As I was indicating, I'm not sure I  
8 would put my support behind such a table. I would  
9 prefer to talk in some generalities about the kind of  
10 information that you've required on this table.

11 Q. Mm-hmm.

12 A. And certainly the combination of  
13 being able to predict -- or, excuse me, forecast or  
14 identify which areas on the ground fall into this  
15 category is one of the areas that we have some  
16 difficulty with and it is in our best interest to  
17 strive for means to assist the foresters to identify  
18 those areas.

19 Q. Mm-hmm.

20 A. And I think that there may be other  
21 ways of addressing those in a plan, possibly through  
22 the use of a different style of silvicultural ground  
23 rule where the foresters would address the kind of  
24 situations, the conditions that they expect to  
25 encounter in the forest based on local knowledge and

1 the development of prescriptions that would address  
2 timber management activities in an acceptable fashion  
3 to occur on those areas.

4 I think as part of that development that  
5 it would be wise to give consideration to the rationale  
6 for any particular treatment on those sites and also  
7 give serious consideration to the expected results of  
8 treatments and, more importantly, the time frame so as  
9 to follow through with all the planning principles that  
10 we have outlined in the plan and allow for proper  
11 handling of those areas in not only the silvicultural  
12 sense, but also in the yield regulation sense.

13 THE CHAIRMAN: So if the Board  
14 understands and tries to understand what you are  
15 getting at, Mr. Kennedy, is what you are suggesting a  
16 revision to the silvicultural ground rules which would  
17 identify what might happen in areas which are not  
18 expect to be regenerated in the normal free to grow  
19 sense and, therefore, when those areas are encountered  
20 there would be a discussion of the rationale for the  
21 types of treatments that would be suggested for those  
22 areas which may also include things like extended  
23 rotation ages before you would bring them back into a  
24 commercially viable species -- what is the phrase?

25 MR. KENNEDY: Preferred commercial



1 species.

2 THE CHAIRMAN: Right. And also you would  
3 somehow relate the fact that they would be coming into  
4 the forest resource inventory at a later stage in terms  
5 of your ultimate yield regulations, et cetera. Is that  
6 what you are essentially getting at?

7 MR. KENNEDY: Yes, Mr. Chairman, your  
8 understanding is correct. And I have indicated that I  
9 have given this a considerable amount of thought. As I  
10 said, the idea is not new, that is one suggestion that  
11 I have arrived at some time ago that I think is  
12 something worth pursuing.

13 During our last break I had a chance to  
14 talk briefly with a number of the other foresters on  
15 the panel and they agree that the concept has some  
16 merit, it has some --

17 THE CHAIRMAN: That would have some  
18 pretty serious implications in terms of increasing over  
19 a different time frame your MAD base; won't it?

20 MR. KENNEDY: I believe that's a topic  
21 that we have not addressed and it was my -- through my  
22 experience, I can advise you that areas that fall into  
23 this category are not a significant part of the land  
24 base, but nonetheless, I believe they should be treated  
25 properly and I don't think that there is a great

1 influence on the overall wood supply on any one  
2 management unit, but certainly it needs to be accounted  
3 for in the MAD land base and also that appropriate  
4 rotation ages and rotation -- and establishment periods  
5 are reflected.

6 MRS. KOVEN: But doesn't that sort of go  
7 against one of the aspects of your silvicultural ground  
8 rules; and, that is, that you wouldn't put the largest  
9 part of your investment in non-productive areas, you  
10 want to spend treatment dollars where you are going to  
11 have the greatest success?

12 MR. KENNEDY: Well, you certainly are  
13 highlighting one of the concerns that we have; and,  
14 that is, identifying the land base on which you are  
15 going to manage and then the treatments that you are  
16 going to apply and the financial analysis that's  
17 becoming more prevalent in the kind of treatments that  
18 you are going to use, particularly with our  
19 shrinking --

20 MRS. KOVEN: So what you would be doing  
21 essentially is simply recording the fact that you have  
22 a difficult area to regenerate--

23 MR. KENNEDY: Yes.

24 MRS. KOVEN: --and it might not go any  
25 farther than that in terms of recording?

1 MR. KENNEDY: That's right, it may lead  
2 to a number of conclusions. On certain sites it may  
3 result in a no harvest prescription, in other areas it  
4 may result in a harvest in a particular manner that  
5 avoids the longer rotation period, it may result in a  
6 harvest and accept the consequences, there would be a  
7 full range of possible options.

8 But the silvicultural ground rules are  
9 intended to cover the range of situations that can be  
10 encountered on the unit and then on any one five-year  
11 term to be applied to the particular piece of geography  
12 that has become allocated for that harvest.

13 MR. MARTEL: Are you not taking this  
14 further than the last discussion you had with Mrs.  
15 Koven?

16 I'm not sure, I think what Mr. Campbell  
17 is asking for is an identification of the area so that  
18 somewhere it fits in the pieces so that you come up  
19 with a final total as opposed to all the other things  
20 you have been saying. I'm not sure Mr. Campbell is  
21 trying to take it as far as you are.

22 MR. KENNEDY: Well, Mr. Martel --

23 MR. MARTEL: It is an identification I  
24 think.

25 MR. CAMPBELL: I think Mr. Kennedy and I



1 are going right down the same track exactly. It's  
2 identification--

3 MR. MARTEL: All right.

4 MR. CAMPBELL: --and implications  
5 obviously. That's why in the table we had -- he has  
6 mentioned rationale for cut and expectations. I  
7 think --

8 MR. KENNEDY: I am following, Mr. Martel,  
9 the suggested table that Mr. Campbell has put before  
10 me. Instead of addressing each box that he has -- each  
11 column that he has shown here, I indicated to him I  
12 would prefer to deal with them in a more conceptual  
13 manner and that's why I have taken you down that row of  
14 how I would handle -- how I would propose one possible  
15 way of handling the concern that Mr. Campbell has  
16 raised and indicate that it does have some merit to  
17 pursue.

18 There may be other avenues, other  
19 approaches that would be equally acceptable to  
20 addressing Mr. Campbell's concern.

21 MR. CAMPBELL: Mm-hmm.

22 MRS. KOVEN: In terms of looking at a  
23 larger picture of some shortfall between harvest and  
24 regeneration, what this suggests is you can't use any  
25 larger measurement of comparison than a stand that's

1       been harvested?

2                   MR. KENNEDY:   Could you elaborate?   Was  
3       that addressed to the panel?

4                   MRS. KOVEN:   Yes, but I was looking at  
5       Mr. Campbell.

6                   MR. KENNEDY:   Could you elaborate on  
7       that, please?

8                   MRS. KOVEN:   I am just saying that even  
9       within a management unit that land base is too large  
10      for you to be able to say:   Yes, we harvested "x"  
11      hectares this year and there is a regeneration  
12      shortfall because there is no matching between those  
13      numbers.

14                   So you would have to follow almost a  
15      single stand over, I don't know, 20 years of the plan  
16      to see, you know, what the harvest and the regeneration  
17      equation came out to.

18                   MR. KENNEDY:   You certainly have  
19      identified one of the troubles that we have in managing  
20      that part of the recordkeeping.   As a young forester  
21      under the tutelage of--

22                   THE CHAIRMAN:   An old forester.

23                   MR. KENNEDY:   --some of the individuals  
24      in the northwest region, I have undertaken, along with  
25      a number of other foresters, an exercise where we did

1 attempt to track stand-by-stand the kind of treatments  
2 that occurred on that area.

3 I was able to do it for three years and,  
4 despite my good intentions, after that period it became  
5 a rather convoluted exercise that required more time  
6 than the records were worth. It was somewhat of an  
7 academic exercise.

8 We are in a much better position today to  
9 look at that recordkeeping now that we have access to  
10 computers, although it does sound perhaps strange when  
11 the first five, six years of my career that kind of  
12 technology was not available to us. There is a  
13 greater --

14 THE CHAIRMAN: Not as strange as you  
15 think, Mr. Kennedy.

16 MR. KENNEDY: There is a greater  
17 opportunity to track that kind of information.

18 MRS. KOVEN: If you had all the time in  
19 the world and you were looking at it sensibly, you  
20 would go on a comparison of rotation ages for a stand,  
21 your best comparison between regeneration and harvest  
22 would be an entire rotation age?

23 MR. KENNEDY: If I had all the time and  
24 money in the world, I would invest in a recordkeeping  
25 system that would embody a geographic information



1       centre and I would track hectare by hectare of my land  
2       base, I would invest in inventories so that I knew  
3       exactly what was present on every hectare, and I would  
4       then design a management system to address the  
5       conditions that I found on those hectares, and then  
6       track it through time and make adjustments as to the  
7       observations I made on the basis of the treatments that  
8       I have undertaken.

9                       Unfortunately, I do not have all the time  
10       in the world, nor do I have all the money at my  
11       disposal, but I think there is a reasonable compromise  
12       in the manner in which we handle our forest resource  
13       inventory, supplemented by the wide variety of surveys  
14       that we do undertake, by including the projections that  
15       we undertake in a group of hectares in our  
16       silvicultural ground rules, by following through with  
17       our treatments, by implementing the plans through the  
18       annual work schedules, following up with our annual  
19       reports and then combining those in the report of past  
20       forest operations, examining the results of our  
21       treatments and adjusting our management objectives  
22       going into the next plan.

23                      MRS. KOVEN: But unavoidably ending up  
24       with the situation where you report publicly that in  
25       any single year you have harvested more than you have

1 regenerated?

2 MR. KENNEDY: Unavoidably reporting to  
3 the public the results of our treatments and, yes, we  
4 report and traditionally had reported the areas that  
5 have been harvested in the province and, additionally,  
6 the areas that had been treated in the province by the  
7 variety of means.

8 We have done that through the statistics  
9 books and we have now made commitments in terms and  
10 conditions 50, 53 to make that information more  
11 publicly available in a format other than the somewhat  
12 stale statistics books that we have supplied as part of  
13 the annual report of the Minister.

14 MRS. KOVEN: Well, all I am saying is, I  
15 think we can see from this hearing that certainly the  
16 way we try to examine this and understand it, is: We  
17 get a much better look at it than the public does and  
18 they will never understand that you are not able to  
19 compare on a land base how much you took off and how  
20 much grew back.

21 MR. KENNEDY: This certainly is a  
22 frustration that we've had, that the public expect --  
23 in my opinion, they expect to see a very easy  
24 relationship between the two numbers and that is not  
25 possible. There are a number of factors, and I think

1 we have outlined them, that go into that.

2 The best we can do is to track over time  
3 the changes in the land base and that is one of the  
4 main items that has been included in the state of the  
5 forest report where we will be outlining the -- where  
6 we will be outlining the relative portions of working  
7 groups in the province, and the age-class distributions  
8 I believe is another element of that report.

9 THE CHAIRMAN: It becomes a qualitative  
10 problem as well, because I think we have heard evidence  
11 that no matter how much you take off, if you wait long  
12 enough, something is going to come back; whether it  
13 comes back in the species that you want and to the  
14 degree that you want in terms of time frame is another  
15 question.

16 MR. KENNEDY: Mr. Chairman, you are  
17 absolutely correct and that is why the concept of free  
18 to grow has been developed, in order to have a check  
19 and balance in the system so that the information that  
20 is being put forward does have some validity in it that  
21 the areas are contributing to the long-term wood  
22 supply.

23 MR. CAMPBELL: I think that answers all  
24 the questions that I have in this area, Mr. Chairman,  
25 and we will pursue this a little further in our



1 discussions with the Ministry. I don't think it is now  
2 useful to worry about exactly how we deal with these  
3 information requirements, at least in the hearing.

4 THE CHAIRMAN: Very well.

5 MR. CAMPBELL: Q. Gentlemen, I had a  
6 really nice part of my cross-examination that I call  
7 fun with numbers that I am just going to pass over  
8 entirely, and it really breaks my heart to do so  
9 because I like having fun with numbers.

10 But I think perhaps it is going to be  
11 more productive to move right on to just a few  
12 questions I had about the various MAD runs, and I  
13 guess --

14 MR. MARTEL: I'm disappointed.

15 MR. CAMPBELL: That's all I need. Give  
16 me that, I had the charts set up so we could have fun  
17 with numbers. Mr. Martel, you have persuaded me, I  
18 will do it that way now.

19 Q. Mr. Multamaki, let me take some  
20 generalizations, and I appreciate they are  
21 generalizations, and if we have to get into the details  
22 we will.

23 Is it fair to say that in the MAD runs  
24 that you did for the Red Lake Plan you made a number of  
25 assumptions: 65 per cent regeneration success, 90-year

1 rotation period, MAD assumes cutting oldest first. The  
2 MAD run in fact cuts older than 120 year old trees for  
3 the first 20 years of the computer run if you look at  
4 the run that's been filed with the Board.

5 All of these things are the assumptions  
6 that have gone into the MAD run results; am I correct  
7 in that?

8 MR. MULTAMAKI: A. Yes. There are a  
9 number of assumptions made when the MAD runs for the  
10 Red Lake Crown were prepared.

11 Q. All right. Now, you make those MAD  
12 assumptions and calculate a MAD at the beginning of  
13 your planning process; is that correct?

14 A. Yes, although the MAD runs are I  
15 guess constantly updated as better information or  
16 better estimates or, you have used the term,  
17 assumptions become available to the planning team.

18 Q. All right. Well, that was really  
19 sort of where I was leading. I didn't see anything  
20 indicated that once you had worked through the planning  
21 process and, for instance, you developed Table 4.15  
22 that breaks down your area allocated for harvest by age  
23 distribution, there are a number of those things that  
24 come along that -- actually you end up with a plan that  
25 will control certain of those assumptions. MAD is

1 assuming oldest first, the MAD runs don't go under 120  
2 years, for instance, until 20 years out.

3 In fact, when you look at Table 4.15 in  
4 your plan you are going to be cutting younger  
5 age-classes very much sooner than 20 years out or you  
6 are going to be cutting a lot of younger age-classes  
7 before or within the five-year period, never mind out  
8 20 years; am I correct in that?

9 A. As I understand the question, quite  
10 simply it's: Are we in fact cutting exactly what it  
11 says in the MAD run calculated for the Red Lake Crown.

12 And, for example, in black spruce we show  
13 there should be 6,847 hectares from the 121 plus  
14 age-class, but in fact the allocation on Table 4.15  
15 comes from a number of age-classes and in that table I  
16 think there is a plus or minus column which shows  
17 where, how and when.

18 Q. Yes.

19 A. So the answer simply is no, the two  
20 don't match.

21 Q. All right. But you do have an age  
22 distribution that you expect to cut and, in that case,  
23 if I recall correctly, certainly by far the largest  
24 portion of the cut is expected to be below that 120  
25 year age-class that's assumed in the MAD run; am I



1 correct in that?

2 A. Yes. I think the actual cut is being  
3 proposed mostly of -- almost exclusively above rotation  
4 age and in those age-classes ranging right up into the  
5 121 plus. And just as a comment, I think now we also  
6 have the requirement to run a MAD calculation with the  
7 actuals.

8 Q. Ah. Well, there you go, you see.

9 A. I thought that was where you were  
10 headed. I thought I would save you some time.

11 Q. So you do actually go back now, and  
12 having run your MAD for expectation purposes, you run  
13 it again using as close to the real assumptions that  
14 pop out at the end of the plan as it is possible to do?

15 A. I better let Mr. Fleet handle this  
16 one, he is anxious to jump in.

17 Q. I have a little quote--

18 MR. FLEET: A. I must have a very  
19 telling face or something here.

20 Q. --from a training session that I was  
21 waiting for Mr. Fleet for, but I haven't decided  
22 whether to use it yet.

23 MR. KENNEDY: I would prefer you do not.

24 MR. FLEET: Mr. Campbell, we have over  
25 time, and we expect as well over time in the future, to

1 be able to make our MAD model more sophisticated and  
2 hopefully better reflect the assumptions and hopefully  
3 we will be able to incorporate into that assumptions  
4 which better reflect the practices in the field; in  
5 other words, that we will be able to model based on the  
6 actual age-classes that we are going to be harvesting  
7 in.

8 The difficulty is that even when you do  
9 that, the validity of it then is really only for that  
10 five-year term. I would agree that it's better, but in  
11 the next five-year term then you are going to be  
12 harvesting inevitably in slightly different  
13 age-classes.

14 So that in terms of its usefulness  
15 compared to the model we are using which says oldest  
16 first, in terms of being able to forecast or predict  
17 into the future, it is perhaps better, but I would  
18 suggest that when you get beyond 10, 20, 30 years it is  
19 of questionable validity in terms of being perfect, but  
20 not vis-a-vis the oldest first scenario in the existing  
21 model that Mr. Multamaki used in his plan.

22 MR. CAMPBELL: Q. All right. I mean,  
23 the simple point I was making is that you do try to  
24 sort of take a look and, to the best extent you can,  
25 you try and improve your runs by feeding back in the

1 assumptions that are relevant to the decisions you've  
2 made?

3 MR. FLEET: A. Absolutely. And we are  
4 hoping not only to do that, but also to make  
5 improvements to the model as we gain experience as  
6 well.

7 Q. All right. To what extent are you  
8 changing your modelling to accommodate the prime site  
9 approach that is outlined at page 3 of Exhibit 56,  
10 which is the Forest Resources of Ontario, 1986?

11 Let me just give you a quote from there.  
12 It says:

13 "The strategy will enable the Ministry to  
14 establish the new man-made forest which  
15 the forest industry will depend upon in  
16 the future. However, moving to a prime  
17 site approach will also mean modifying  
18 harvesting practices. In the past, the  
19 harvesting strategy has been to cut the  
20 oldest and often overmature stands  
21 first..."

22 And there is some more discussion, and  
23 then it goes on and says that:

24 "As a result, the Ministry and the  
25 companies will be modifying their



1 harvesting strategies to permit  
2 harvesting of younger stands on prime  
3 sites, thus facilitating the prime site  
4 regeneration strategy."

5 And that's described earlier on the page  
6 where it's pointed out that the location of prime sites  
7 will depend on three factors: site characteristics,  
8 such as productivity, degree of competition from  
9 undesired vegetation, and accessibility of the site and  
10 its proximity to mills.

11 To what extent is that prime site  
12 approach -- I am sorry to have to read so much. To  
13 what extent is that prime site approach - which is  
14 quite different from an oldest first assumption and is  
15 clearly by this statement the Ministry's direction - to  
16 what extent is it now being incorporated into the  
17 modelling? Is there any effort going on to do that?

18 A. With respect to changes in the model  
19 and the newer model that we have now available to us, I  
20 would say there are two changes.

21 The one that I have already identified,  
22 which is the model no longer necessarily assumes we are  
23 harvesting oldest harvest. We can now incorporate into  
24 the model the age-classes of the stands that we are  
25 indeed going to harvest.

1                   And one other feature I think that we  
2           have incorporated -- that we have incorporated into the  
3           model is the ability now to model what we've described  
4           as an age of death. Really what that is is an age  
5           of -- an age at which the timber, the old timber is  
6           really no longer useful to industry.

7                   I'm not suggesting that the trees are  
8           suddenly spontaneously dying, but--

9                   Q. They might have rotted --

10                  A. --for modelling terminology they are  
11           really no longer of merchantable use to industry.

12                  So with respect to the prime site  
13           management where we are moving -- where we may on  
14           certain management units move away from strict oldest  
15           first, we can -- you can make provision for the fact  
16           that you are not going to be harvesting some of the old  
17           wood because of it's distance from the mill and so  
18           forth and, therefore, you don't necessarily want to  
19           have that as one of the assumptions in your model.

20                  Q. Does the modelling also include, as  
21           it is being developed, include different site classes?

22                  A. No, that wouldn't necessarily be  
23           something that has to be incorporated into the model.  
24           What you would do with respect to consideration of site  
25           classes is, through the development of forest units,

1       you would aggregate those forest units - and they may  
2       be something that's simply defined as something on the  
3       basis of site class, they could be within a geographic  
4       distance of a mill or so forth - you would aggregate  
5       the timber -- the forest resource inventory, those  
6       elements, you would use that as your modelling database  
7       and you would then use that same MAD model that we  
8       have.

9                   Q.   I see.   And is the model -- I have  
10       always been sort of curious about this area planning  
11       when what the mills use is volume.

12                   And, as I say, we have been reviewing  
13       plans and we see that, for instance, in the Spanish  
14       River Plan - I have not filed excerpts - there is  
15       reference to a model I guess which is used as an  
16       alternative to OWOSFOP which is called FORMAN.  Is that  
17       the model that you are referring to?

18                   A.   No, all along I have been referring  
19       to our MAD model.  The OWOSFOP, and I don't know if we  
20       can characterize the subsequent versions as OWOSFOP,  
21       but the area base regulation model that we have been  
22       using in timber management planning in Ontario.

23                   Q.   I see.   So that's -- what you have  
24       been speaking to is refinements of that, of that model,  
25       that area approach?



1           A. That is the model that I have been  
2 speaking about, yes, sir.

3           Q. Okay. And to what extent does the  
4 Ministry see itself moving towards a volume regulating  
5 model as we saw when we reviewed the Spanish River Plan  
6 where there was -- both were used, I should say?

7           A. Yeah. The Timber Management Planning  
8 Manual permits the use of any model. You could use, I  
9 don't know, a Chinese obelisk if you wanted, whatever  
10 they are called.

11           You could use -- but you have to, for the  
12 purposes of meeting the minimum requirements of the  
13 timber planning manual, you do have to present OWOSFOP  
14 runs. If you can then -- and that would enable us in  
15 our efforts to have a handle on provincial wood supply  
16 or regional wood supply, will enable us to compare  
17 apples to apples.

18           If you can rationalize the use of another  
19 model or another method, area or volume, if you can  
20 rationalize that use of that model or that method, that  
21 is provided for in the timber planning manual, but as a  
22 minimum requirement we have the requirement that you  
23 must provide us with the area based runs from the  
24 OWOSFOP model or its subsequent versions.

25           Q. All right. And to read the words

1 from the Timber Management Planning Manual itself, it  
2 says that:

3 "...OWOSFOP is the only acceptable  
4 official means of calculating the MAD."  
5 That's what you were referring to?

6 A. Could you give me the page number on  
7 that?

8 Q. 184. I should add that that is  
9 prefaced by:

10 "For forest management agreement  
11 areas..."

12 I understand we are moving more in the  
13 direction of forest management agreements, but I am  
14 speaking particularly of forest management agreement  
15 areas.

16 A. I would suggest that that statement  
17 is perhaps outdated and I would refer you to page 71,  
18 the section titled: 4.10, Maximum Allowable Depletion  
19 of that same exhibit, the timber planning manual.

20 The fourth paragraph - starting with  
21 "...for uneven-aged management..." - talks about the  
22 flexibility to use another methodology but indicates  
23 that as a minimum requirement you must use the area  
24 based calculations and provide as a minimum both the  
25 normal age area calculation and the average age

1 calculations.

2 MRS. KOVEN: Excuse me, which page is  
3 that, Mr. Fleet?

4 MR. FLEET: That would be page 71 of the  
5 timber planning manual, the fourth complete paragraph.

6 MR. CAMPBELL: Q. And --

7 MR. FLEET: A. That would be a blue page  
8 dated April, 1987.

9 Q. So that as other tools -- what you  
10 are telling me, I guess, is that as other tools like  
11 the FORMAN model come along, that we are not going to  
12 be stuck in the situation that if they turn out to be  
13 an improved version the companies running FMAs are  
14 going to be restricted to using OWOSFOP, you are saying  
15 they can use these new and improved tools as they come  
16 along?

17 A. Yes. I would suggest the timber  
18 planning manual does state though that as a minimum  
19 they would be required in addition to provide us with  
20 the OWOSFOP runs so that we would be able to compare,  
21 at least for one methodology of modelling, one  
22 management unit to another, one region to another and  
23 so forth.

24 Q. It is obviously desirable to be able  
25 to do that comparison.



1 I guess finally, I understand as well  
2 basically from our discussions yesterday after the  
3 hearing that there are efforts being made to improve  
4 the presentation in the plan of MAD run results, a  
5 matter in which we have spent considerable eye strain  
6 and we love the graph in the exhibit which summarized  
7 the MAD results that I think Mr. Multamaki presented, I  
8 forget the exhibit number.

9 But do I understand correctly that there  
10 is a movement towards presenting the MAD run results in  
11 that graph -- in a graph form, if not the precise form  
12 that was used by Mr. Multamaki; is that correct?

13 A. There are no requirements with  
14 respect to Timber Management Planning Manual  
15 requirements to present a graphic version of the trend  
16 of wood supply on a management unit, but there are --  
17 there is the ability in the IBM microcomputer version  
18 of OWOSFOP which also enabled -- which has those other  
19 changes in it that I have just recently spoken of,  
20 there is the ability in that particular version of the  
21 model to produce some fairly clear and good graphics to  
22 accompany the MAD runs.

23 Q. And do I understand that the use of  
24 that is becoming more widespread?

25 A. The use of the model is becoming more

1       widespread. The graphics, I would suggest, are  
2       probably too becoming more widespread.

3               Q. All right. And you would agree that  
4       it is a more easily understood or more quickly  
5       understood -- perhaps to be more accurate, more quickly  
6       understood method of presenting that information?

7               A. I think it depends on the audience,  
8       but for the layman, certainly.

9               Q. Mr. Kennedy, back to you. When you  
10      were in Dryden you gave some testimony about providing  
11      a -- about some consideration being given of a summary  
12      of the timber management plan.

13              When do you propose to -- when does the  
14      Ministry propose to bring the matter of providing a  
15      summary to some conclusion - and I am not assuming that  
16      it will be to provide a summary - whether you think  
17      this is a good idea and, if so, what will it include  
18      and, if not, why not? When could we expect to hear  
19      from you on this matter?

20              MR. KENNEDY: A. We haven't really come  
21      up with a date on that.

22              Q. Is it within the rotation age?

23              A. I would think prior to the end of the  
24      hearing.

25              Q. That may not be before rotation age.

1 A. That may not be rotation age.

2 Q. So beyond that you have really not  
3 given --

4 A. Beyond that I haven't given any  
5 thought as to when we will be able to complete that  
6 exercise.

7 Q. Is there any chance that we would  
8 hear from you on that before the end of your case?

9 A. I would think that the chance is  
10 somewhat on the remote side given the other tasks that  
11 I see forming before me.

12 Q. Including your recent addition to  
13 Panel 17?

14 A. Including my recent addition to Panel  
15 17 which I understand has --

16 THE CHAIRMAN: I think it is reasonable  
17 to assume the answer is no, Mr. Campbell.

18 MR. CAMPBELL: I think so. And perhaps  
19 that is one matter, again, that can be discussed  
20 between the parties.

21 MR. FREIDIN: By the way, I think just  
22 for the record, because people are actually reading the  
23 transcript, in my comment earlier, the comment was made  
24 in jest and people should not take it as an undertaking  
25 given by the Ministry.



1 Mr. Kennedy will be here in 17.

2 MR. CAMPBELL: Q. I don't know whether  
3 this is to Mr. Kennedy or Mr. Bisschop. I notice that  
4 in the training material there is increasing emphasis  
5 this year in dealing with what are called problems and  
6 issues, identifying problems and issues and then  
7 developing objectives and strategies to address those  
8 problems and issues.

9 You are familiar with that, Mr. Kennedy?

10 MR. KENNEDY: A. Yes, I am.

11 Q. I can't tell from the material  
12 whether the Ministry intends to explicitly require a  
13 section that outlines problems and issues which are  
14 pertinent to the objectives and strategies for the  
15 unit. Is that intended to be a specific separate  
16 section of a plan?

17 A. It is now. It is recorded in the  
18 Timber Management Planning Manual, Exhibit 7, on page  
19 60 which is a blue page.

20 Q. Great. I'll retreat in  
21 embarrassment.

22 Would you think that that might be a  
23 useful thing to put in a summary of the plan, sort of a  
24 key element if one was to be pursued?

25 A. Well, we are looking for suggestions

1 from individuals as to the kind of information they  
2 would like to see in a summary. I can see that that  
3 may be -- yes, I would agree it would be something  
4 worth considering putting in.

5 Q. Okay. I next want to turn -- well,  
6 we will take you up on the invitation, thank you.

7 I next want to turn to mapping. You have  
8 got a term and condition which addresses this  
9 specifically, it is term and condition No. 6 which  
10 speaks to providing in reproducible form the values map  
11 and I think, Mr. Bisschop, I want to just touch bases  
12 with you on this one.

13 I'd just ask you to confirm that MNR is  
14 the Ministry with the principal responsibility for  
15 mapping and map production matters in Ontario; is that  
16 correct?

17 MR. BISSCHOP: A. Yes, that's correct.

18 Q. And with respect to reproducible  
19 maps, in your experience as a planner, is the  
20 technology available now to do this for the values map?

21 A. I believe that, yes, the technology  
22 certainly is available, yes.

23 Q. And would you agree with me that it  
24 is not only available, but it is readily available and  
25 has been available for some time in your experience?

1                   A. In my experience, yes.

2                   Q. And obviously on these -- well, I am  
3 just trying to understand what degree of problem we are  
4 looking at here before we can expect to see these maps  
5 accompanying the reports on a regular basis.

6                   We, for instance, the Ministry of the  
7 Environment occasionally gets maps with the reports in  
8 terms of the map sheets, but not often. What kind of  
9 time period are we looking at before this term and  
10 condition is implemented?

11                  A. I don't think I can be specific in  
12 terms of time period. In terms of the -- what I  
13 understood your first question to be, the subject of  
14 what problems are there, the thought that we have given  
15 to it so far is that we would like to see some  
16 consistency in the approach from management unit to  
17 management unit; for example, the subject of scale, so  
18 that anyone interested in reviewing material on values  
19 map, who perhaps might be interested in a number of  
20 management units and adjacent management units, would  
21 be able to understand that readily.

22                  So it's -- I think our problem is getting  
23 the -- making the decision and getting the direction to  
24 get consistent approach to map production and  
25 reproducibility across the province.



1 Q. All right. So we are talking  
2 basically practical, everyday implementation problems,  
3 that's the level at which this matter needs to be  
4 addressed now?

5 A. That's correct. Obviously through  
6 the condition we've made the decision that we will  
7 proceed with this, yes.

8 Q. All right. The condition speaks to  
9 the values map. Is any thought being given to  
10 producing a map of the areas allocated for harvest in  
11 reproducible form?

12 And it seems to me that in the hearing we  
13 have been seeing a lot of focus on sort of two kinds of  
14 things, particularly area of concern and where you are  
15 going to be cutting.

16 And I wondered if you have given any  
17 thought to expanding that to give an indication in map  
18 form of -- reproducible map form of areas allocated for  
19 harvest?

20 A. Yes, we have, and I think again we  
21 raised this I believe in direct and perhaps again in  
22 cross. If you turn to page 78 of the Timber Management  
23 Planning Manual--

24 Q. Mm-hmm.

25 Q. --in the last paragraph we refer to

1 the requirement to produce a summarized map of the  
2 areas in which operations will occur during the  
3 five-year term at a scale of 1:250,000.

4 Again, the attention we have given to the  
5 subject of making available reproducible maps, I see  
6 this as perhaps a key second map that can be made  
7 available in reproducible form.

8 The intent would be on that map to very  
9 clearly indicate that it's a generalized map and refer  
10 the reader to the other variety of maps that you see  
11 behind me as providing the details of any operations in  
12 the area that's outlined.

13 The idea here is to very quickly give  
14 someone a visual portrayal of where operations will  
15 occur during the five-year term so that, particularly  
16 during public consultation, individuals can readily see  
17 whether or not they have a continuing interest  
18 particularly in the development of the plan and  
19 subsequently operations.

20 Q. So that if they wanted then to go to  
21 a more detailed level they would do what they have to  
22 do now, which is go to the appropriate MNR office in  
23 the region to look at the more detailed maps; is that  
24 correct?

25 A. That's correct.

1                   Q.   The 1:250,000 scale, is it  
2                   anticipated -- well, you are still struggling with the  
3                   scale for the values map. I take it those scales may  
4                   not match then?

5                   A.   That's true. It has been some time  
6                   since I have been involved in the discussions on map  
7                   scale to values map, but I do recall at that time,  
8                   because of the vast array of information that might get  
9                   portrayed on a values map and, of course, it is going  
10                  to be variable from management unit to management unit,  
11                  we were looking at a scale of 1:100,000 at that time  
12                  for the values map, but we haven't made that decision  
13                  yet.

14                 Q.   Do you think it might be --

15                 A.   Excuse me. As a comment, I believe  
16                  the Timmins Forest values map, which we introduced as  
17                  an exhibit, is at a scale of 1:100,000.

18                 Q.   Do you think it might be useful to  
19                  have the allocation area on a similar scale, and I am  
20                  thinking back to some of the work that I know you did  
21                  at Hydro where there was sort of semi-transparent  
22                  overlay prints where, if you did the values map, you  
23                  could print on a semi-transparent overlay the  
24                  allocation area, put it on top of the values map, you  
25                  can read right through it and you can relate the values



1 then to the areas allocated?

2 Are you giving any consideration to  
3 having that kind of mapping done in the way which  
4 allows that kind of relationship?

5 A. I think I can simply answer, I've  
6 thought of it. I think you refreshing me on the  
7 utility of that is something that's a good comment that  
8 we will take into consideration when we finally make  
9 those decisions.

10 Q. All right. Have I asked you what  
11 time frame you expect for those decisions?

12 A. I'm not sure, but I think again I  
13 can't be specific. It is certainly something that I  
14 would expect we will attempt to address as soon as we  
15 can, particularly after Mr. Kennedy and I no longer  
16 have to appear on the stand.

17 Q. All right. Now, I think then, Mr.  
18 Multamaki, I want to come back to you. I believe there  
19 has been evidence previously whereby MNR has stated  
20 that site investigations may be undertaken before  
21 harvest on a PFR site. Is that consistent with your  
22 experience?

23 MR. MULTAMAKI: A. They may be  
24 undertaken certainly before harvesting and not only on  
25 PFR sites, but for a variety of other reasons as well.

1 Q. I went back and looked up the  
2 definition of production forest reserves and the  
3 characteristics of those sites last night.

4 And can you just confirm for me that PFR  
5 areas are areas that have logging or potential logging  
6 or silviculture difficulties and, in fact, that they  
7 might be considered areas that are potentially - and I  
8 say potentially - more environmentally sensitive than  
9 normal production forest areas?

10 A. That's only a part of production  
11 forest reserve. Really what's happening with  
12 production forest reserve, in my understanding, is that  
13 a flag is being raised saying there may be constraints  
14 to timber activities on those sites, and the issues you  
15 have raised may only be a part or may only be an issue  
16 on a few or a portion of those sites.

17 Q. Yes. And my recollection of the PFR  
18 classification in the FRI, for instance, is exactly the  
19 same as yours: There is a flag raised, you can't tell  
20 just by the FRI designation that in fact there are  
21 constraints, you have to actually be on the site to  
22 make that determination or take advantage of some other  
23 information to make that determination?

24 A. I'm glad you added the second part of  
25 that. I don't think it's necessary that you actually

1 be on the site, but certainly I think the planning team  
2 and the unit forester be comfortable with the level of  
3 information available to them when they make decision  
4 with respect to not only PFR sites, but other areas on  
5 the unit.

6 Q. All right. But with respect to PFR  
7 sites generally, you would agree with me that at least  
8 one of the classes of concern that might arise is that  
9 they might be environmentally sensitive?

10 A. Might.

11 Q. Now, we asked for copies of the site  
12 selection reports for each of the PFR areas inspected  
13 in the Red Lake Plan in Interrogatory 24. Did you  
14 prepare the answer to that interrogatory?

15 A. That was a Ministry answer. I think  
16 there were a number of people that were involved in  
17 that.

18 Q. All right. Well, maybe we can just  
19 hand it out and deal with it this way.

20 MR. CAMPBELL: It is Interrogatory No. 24  
21 and we can put it in our book, Mr. Chairman, and they  
22 consist of four -- the interrogatory and the answer  
23 consist of four pages starting at page 49.

24 MR. FREIDIN: 39.

25 MR. CAMPBELL: 39.



1 MS. SEABORN: (handed)

2 THE CHAIRMAN: Thank you.

3 MR. CAMPBELL: Q. Do you have that, Mr.  
4 Multamaki?

5 MR. MULTAMAKI: A. Yes, I do.

6 Q. Now, the question that was asked:  
7 "Were site inspections conducted on any  
8 or all of the PFR areas identified on the  
9 stand map prior to allocation for  
10 harvest?"

11 The second part of the question:

12 "Please provide copies of the site  
13 inspection reports for each of the PFR  
14 areas inspected."

15 Now, as I understand it from the answer,  
16 the answer to the first part of the question is:

17 Yes -- the first sentences reads:

18 "The Production Forest Reserve Stands  
19 were ground and aerial inspected prior  
20 to their allocation for harvest."

21 Now, I am reading that as saying that all  
22 of the PFR stands were ground and aerial inspected  
23 prior to allocation for harvest and, quite frankly, I  
24 was a little surprised by that.

25 A. Perhaps I should clarify this, in

1       that I think what we are talking about with respect to  
2       allocation for harvest is at the annual work schedule  
3       in this instance. Perhaps Mr. Groves can, or Mr.  
4       Kennedy can...

5               MR. KENNEDY: A. Mr. Campbell, I could  
6       first advise you that we -- I recall reviewing the  
7       answer to this interrogatory prior to leaving our  
8       office and the interpretation we put on the question  
9       was that you were directing the question to page 602,  
10      which is the second volume, Exhibit 813B, and the  
11      statement of evidence for Panel 15 which contained a  
12      map as part of the annual work schedule, the revision  
13      to the annual work schedule and we thought your  
14      comments were relating to those areas contained on the  
15      map.

16             Q. Well, I think my question is more  
17      general than that. I agree this answer only deals with  
18      certain specific areas. Oh, I can see how you could  
19      read it that way when I look at it again. You are  
20      absolutely right.

21             I don't intend that anything turn on that  
22      part of it any event. The answer goes on then to state  
23      that:

24             "As a result of those inspections, a  
25      refinement was made to the area

1 authorized for harvest. A map which  
2 shows the final area authorized for  
3 harvest in the licensing program is  
4 attached."

5 And if we go over to page 41, I take it  
6 that that's the map that we are referring to?

7 MR. MULTAMAKI: A. Yes. Yes, that is.

8 Q. Now, could you put up the base map we  
9 marked as an exhibit yesterday, please.

10 Mr. Multamaki, as I understand it,  
11 looking at page 40, one of the site inspections covered  
12 stand numbers 181 and 184; is that correct, just on the  
13 shores of Suffel Lake?

14 A. Yes, that's correct.

15 Q. And in fact on the allocation map  
16 that was used in the development of the timber  
17 management plan all of - with the exception of I think  
18 perhaps an area of concern along the shoreline - all  
19 the rest of the stands 181 and 184 were shown as being  
20 available for harvest; is that correct?

21 A. A large part of stand 181 -- or a  
22 large amount of 181 and 184 were in fact shown as being  
23 allocated for harvest or for timber operations.

24 Q. In the plan?

25 A. In the plan, in the five-year TMP.



1                   Q. Right. Then what happened was that  
2 in -- if I read the date of the operational cruising  
3 stand information sheet correctly, there was an  
4 operational cruise done on stands 181 and 184 on March  
5 4th, '87; is that correct?

6                   A. Yes, that's correct.

7                   Q. And that material was subsequently  
8 referred to on November 22nd, 1988, when there had  
9 obviously been, as stated in the memo, an:

10                   "Aerial reconnaissance confirmed as per  
11 field inspection report that portions of  
12 FRI stands 181 and 184 will be removed  
13 from harvest allocations as per attached  
14 licence map. Topography and shallowness  
15 of soil being the primary concern."

16                   Am I correct that with respect to those  
17 two stands, this is an example of how the planning  
18 process goes along from the five-year plan, as you get  
19 closer to the actual harvest you might look at some  
20 more detailed information after the plan has been  
21 approved.

22                   On the basis of that, what Mr. Sidders --  
23 or Ms. Sidders has stated here is that a portion will  
24 be removed from harvest because of topography and  
25 shallowness of soil, and that's a normal evolution of

1       this matter. Is that correct so far?

2                   A. Yes. I think what Ms. -- I mean Mr.  
3       Sidders has done is refined the allocation that was  
4       made in the timber management plan to reflect local  
5       conditions during the annual work schedule or at the  
6       annual work schedule level.

7                   Q. All right. And in fact what we were  
8       advised in the interrogatory answer was that a map  
9       which shows the final area authorized for harvest in  
10      the licensing program is attached, and that's what I  
11      take to be the area that's outlined on page 41; is that  
12      correct?

13                  A. That's correct.

14                  Q. Now, our concern with the planning  
15      process is when you get down to that level of detail,  
16      as demonstrated if we go to Exhibit 813B, page 601.  
17      And perhaps I could just distribute pages 601 and 602.

18                  MS. SEABORN: (handed)

19                  THE CHAIRMAN: Thank you.

20                  MR. CAMPBELL: And they are taken from  
21      Exhibit 813B and should be numbered pages 43 and 44 in  
22      our Part 1 of Exhibit 911.

23                  THE CHAIRMAN: That's correct.

24                  MR. CAMPBELL: Q. Now, do you have that  
25      material, Mr. Multamaki?

1 MR. MULTAMAKI: A. Yes, I do.

2 Q. And, Mr. Groves, do you have that  
3 material?

4 MR. GROVES: A. Yes, I do.

5 Q. We took a look at this and we had a  
6 concern -- we understand how it goes through and there  
7 is this refining of information, site inspection  
8 report, clear recommendation that it would be removed,  
9 and in fact we were told it was removed, and then we  
10 came to -- when we actually looked at pages 601 and  
11 602, which are now pages 43 and 44 of Part 1 of Exhibit  
12 11, what we found was that -- what appears to have  
13 happened is that some two weeks after the memo which  
14 says it will be removed from harvest allocations, some  
15 two weeks later than the date of that memo there is an  
16 amendment under the annual work schedule process to put  
17 that area which had been taken out of the allocation  
18 back in.

19 And you can see that by comparing the map  
20 that is page 41 on the stands 181 and 184 with the map  
21 that is Exhibit 602 which we understand -- page 44  
22 rather, which we understand to have been associated  
23 with the annual work schedule approval on the opposite  
24 page.

25 Now, is that in fact what happened?



1 MR. MULTAMAKI: A. No, I think you are  
2 confused in the process that took place. As I see  
3 this, the amendment to the annual work schedule --  
4 actually it is not -- perhaps Mr. Groves could address  
5 it. I notice his name is halfway down the page.

6 Q. Well, I was just going to suggest  
7 that. Quite frankly, it looks to us like the process  
8 all worked fine, the inspection was done, sensitive  
9 area taken out and two weeks later, Mr. Groves, you  
10 signed a piece of paper putting it back in and we  
11 wondered if we missed something here that we should be  
12 concerned about in terms of plan amendment, bump-up,  
13 this sort of general area?

14 MR. GROVES: A. No, I can ensure you the  
15 process was functioning. What you see is that Mr.  
16 Sidders, when he carried out the revision to the annual  
17 work schedule, identified all of the stand, and I think  
18 that's where the confusion arises, from the November  
19 memo to file and that all of stand 181 and 184 is  
20 included in the revision.

21 The reason for that is that all of 181  
22 and 184 were the actual allocation. Subsequent to  
23 December and the date of the revision, the licence and  
24 the approval and the actual approval to have operations  
25 commence matches the note of November, the memo to file

1 by Mr. Sidders.

2 Q. So that the chronological order here  
3 doesn't actually indicate what happened, there is some  
4 additional documentation which you say restricts the  
5 licensee from harvesting beyond the areas shown on page  
6 41?

7 A. That's correct.

8 Q. Thank you. So what in fact we are  
9 left with, Mr. Groves, is that - having satisfied our  
10 concerns - it is a good example of where there is a  
11 concern for a particular area, the forester goes out,  
12 looks at it, the concern is dealt with by removing a  
13 certain portion of that sensitive area from the  
14 allocation, and the balance is proceeded with in the  
15 normal course?

16 A. Yes, that's correct. Part of the  
17 reason Mr. Sidders and I were contemplating having the  
18 whole area put in was that we have to track area, and  
19 this is part of the allocation. Yes, we have actually  
20 depleted but we have no intention of harvesting it.

21 So as an area, yes, we have allocated it  
22 and we have depleted a portion of it and we set aside  
23 for it so for the next inventory we know it's not --  
24 unless some conditions change, we don't plan on  
25 harvesting it, so it won't be included for the next

1 plan.

2 Q. And this flow and refinement of  
3 information, it is fair for me to say that that is kind  
4 of normally what happens?

5 A. I would say yes.

6 Q. Thank you.

7 MR. CAMPBELL: Thank you, Mr. Chairman.  
8 Those are my questions.

9 THE CHAIRMAN: Thank you.

10 Mr. Freidin, how long are you going to  
11 require before you are ready for re-examination?

12 MR. FREIDIN: Why don't we break for an  
13 hour --

14 MR. CAMPBELL: Oh, oh, oh.

15 MR. FREIDIN: I'll let you finish, sorry.

16 MR. CAMPBELL: Well, there is one more  
17 thing that really isn't -- I guess it may be a question  
18 of the panel. I'm sorry, I had forgotten about it.

19 Mr. Chairman, in Exhibit 5A there is  
20 included at pages 28 and 29 - I don't think you need to  
21 turn it up right now - there is included a letter from  
22 Mr. Douglas, Ministry of Natural Resources, to Mr. Ward  
23 who up until recently was the Director of the  
24 Environmental Assessment Branch. That letter refers  
25 to --



1 THE CHAIRMAN: You say up until recently.  
2 How recent is that change?

3 MR. CAMPBELL: Monday.

4 THE CHAIRMAN: That's pretty recent. Can  
5 you advise us where he is?

6 MR. CAMPBELL: Director, Eastern Region.

7 THE CHAIRMAN: Okay, thank you.

8 MR. CAMPBELL: Southeastern Region,  
9 sorry. That letter refers to some discussions which  
10 were contemplated to take place between the Ministry  
11 with respect to the Class EA amending procedures. I am  
12 referring to the paragraph that is numbered 1.

13 I spoke to Mr. Freidin about this this  
14 morning. To the best of both of our knowledge those  
15 discussions have not taken place as contemplated in  
16 that paragraph.

17 I wanted the Board to be clear about that  
18 in that, while we do anticipate talking about these  
19 matters it should not be assumed at the moment that the  
20 amending procedure included in MNR's statement of  
21 evidence is an agreed process as contemplated by this  
22 paragraph.

23 I don't think there is any problem here,  
24 I just raise this out of an abundance of caution. I am  
25 also slightly nervous about it because it maybe that

1 Mr. Freidin and I are both uninformed and that in fact  
2 these discussions have taken place. This is not  
3 impossible and I can't give the Board a hard assurance  
4 that that hasn't happened. It was both of our  
5 impressions.

6 I don't want the Board drawing any wrong  
7 conclusion out of this. I don't anticipate any  
8 difficulty with it, I just want it straight on the  
9 record.

10 Thank you.

11 THE CHAIRMAN: Well, Mr. Freidin, you are  
12 indicating an hour?

13 MR. FREIDIN: Yes. I think if we break  
14 now people can pick up their lunch. I think I may  
15 finished in less than the two hours but I'm not sure,  
16 but if we just break for an hour then I'm pretty sure  
17 we'll have no problem finishing by three.

18 THE CHAIRMAN: All right. Very well, we  
19 will do that.

20 Two matters just before we rise; and,  
21 that is, the Board had requested counsel to give some  
22 consideration to a date when we might formally receive  
23 submissions from counsel for the various parties as to  
24 the Board's jurisdiction through the imposition of  
25 conditions of approval to order the amendment of

1 certain documentation incidental to this proceeding,  
2 and that type of documentation includes the  
3 environmental assessment - I think there is little  
4 doubt about that - but the Timber Management Planning  
5 Manual, any silvicultural guides or any other  
6 guidelines or provincial policies or other policy  
7 statements by the Ministry itself.

8 And the Board would like to have this  
9 dealt with by way of formal submission of the parties  
10 as to their positions vis-a-vis the Board's  
11 jurisdiction so that the Board could rule on this  
12 matter in a fairly expeditious way, because the Board  
13 anticipates that this will have a fairly major impact  
14 on other parties in terms of their formulating their  
15 suggested conditions of approval.

16 We do not want everybody to spend a lot  
17 of time, expense and effort formulating precise  
18 suggested conditions of approval which may end up in a  
19 request for the Board to, through its imposition of  
20 conditions at the end of the day, require the amendment  
21 of certain documentation if in fact the Board doesn't  
22 have the jurisdiction to do so.

23 It won't be helpful to anyone to arrive  
24 at that position at the end of this case, bearing in  
25 mind that we have ordered that the suggested conditions



1 of approval of all parties be submitted and on the  
2 table by January 30th.

3 Now, the date that I think that was  
4 bantied around perhaps was the afternoon when the Board  
5 returns subsequent to Remembrance Day which I believe  
6 would be on the Tuesday afternoon, that would be the  
7 14th of November.

8 MR. CAMPBELL: That's right, Mr.  
9 Chairman. I see Ms. Swenarchuk has left. I know she  
10 had some other meetings to attend.

11 I did have the opportunity to speak to  
12 her about it. She had suggested an alternate date but  
13 which I don't think is workable for some of the other  
14 parties. She also suggested that given that it was a  
15 half day in any event, would the Board give  
16 consideration to hearing those submissions in Toronto.

17 She also raised - and perhaps I will just  
18 pass on to you - the request that the Board indicate,  
19 perhaps not neccesarily today, but as soon as  
20 conveniently possible, what it is that's given rise to  
21 this concern. I think she saw that or her initial  
22 reaction was that there was simply no question that the  
23 Board had such authority and she was sort of amazed  
24 that the question was even being asked and she was  
25 curious as to whether the Board could provide any

1 guidance as to why the Board had this concern at all.

2 So I just -- the 14th date is  
3 satisfactory certainly for the Ministry of the  
4 Environment. I just thought it would be useful to  
5 report on behalf of Ms. Swenarchuk.

6 THE CHAIRMAN: All right. Well, the  
7 guidance that we may be able to provide is simply this:

8 As the Board understands the legal  
9 position with respect to policy and policy statements,  
10 the Board is obliged to take into account any policy  
11 but is not obliged to necessarily, I think the words of  
12 the Innisfil case were slavishly follow it, but in  
13 arriving at any decision where there was a policy in  
14 place, the Board certainly had to consider the policy  
15 prior to arriving at its decision.

16 That was the Innisfil and Vespra Township  
17 case decided by the Divisional Court which I think went  
18 to the Court of Appeal.

19 MR. COSMAN: Supreme Court of Canada.

20 THE CHAIRMAN: Sorry, Supreme Court of  
21 Canada, Barrie and Innisfil case as it is known.

22 Now, having said that, does that allow  
23 the Board in its conditions of approval to render a  
24 condition which would not deal with whether or not the  
25 Board took into account the policy which it must do,

1 but have the effect of forcing a party to contravene  
2 that policy by imposing a condition of approval  
3 pursuant to the Environmental Assessment Act.

4 If that is the case, then by a party not  
5 complying with a condition, that party may find  
6 themselves in the position of having committed a  
7 statutory offence under the Environmental Assessment  
8 Act, notwithstanding the province has indicated in  
9 another document at the Cabinet level that the policy  
10 shall be such and such.

11 And just to give a sort of cogent example  
12 which we can tie into this hearing is: There is an  
13 example of a policy position taken by the government  
14 that there shall not be chemical spraying of  
15 insecticides. Now, should the Board, because of the  
16 evidence put forward to it, decide in a given situation  
17 that this is in fact what should happen in a given  
18 area, could the Board impose a condition of approval  
19 that mandates the Ministry to treat a particular area  
20 with chemical insecticides, make it a condition of  
21 approval; failure to do so on the part of the Ministry  
22 may give rise to a statutory offence, it is clearly in  
23 opposition to what a stated government policy on that  
24 particular question is.

25 It's a neat legal question. I am not



1       sure -- the Board isn't suggesting it has the answers,  
2       but it would like submissions with respect to that type  
3       of perhaps problem that might arise with the Board  
4       imposing a condition that would mandatorily contradict  
5       a policy.

6                       Now, that's on the one hand. Then you go  
7       down to a different class of documents such as, for  
8       instance, the silvicultural guides or ground rules  
9       which are before this Board and which are not  
10      supposedly - and you might correct me if I am wrong,  
11      Mr. Freidin - are not before the Board for approval.

12                     MR. FREIDIN: That's correct.

13                     THE CHAIRMAN: But nevertheless, as a  
14      result of the evidence coming before this Board, it  
15      decides that something in one of those guides is  
16      unacceptable and in fact should either be deleted or  
17      amended.

18                     Now, can it, under the auspices of its  
19      power to impose terms and conditions under the  
20      Environmental Assessment Act effectively force a change  
21      in that kind of document?

22                     And then there is another class of  
23      document which we have been discussing which is the  
24      Timber Management Planning Manual for which a number of  
25      suggested changes have been put before the Board, not

1       only by parties in opposition but also by the Ministry.

2                   And so at the end of the day will the  
3       Board be specifying, not in terms of rewriting the  
4       manual, but specifying certain requirements by way of  
5       condition of approval that must be included within that  
6       manual.

7                   MR. FREIDIN: I think one comment that  
8       just comes to mind that may be overlooked by some and  
9       maybe we should consider it; and, that is, we are going  
10      to have the planning manuals document which is mandated  
11      by the Minister of Natural Resources through  
12      legislation.

13                  THE CHAIRMAN: Right, through the Crown  
14      Timber Act and so you have got a further complication  
15      because, as Mr. Freidin points out, that document is  
16      required under another piece of legislation.

17                  Well, what is the ability of this Board  
18      through its power to impose conditions of approval to  
19      effectively, I suppose, force the Minister to agree to  
20      changes in that document, for he is required to approve  
21      that document pursuant to the Crown Timber Act and, you  
22      know, you have got that whole question.

23                  And the only document I think that we are  
24      dealing with, with which the Board feels a hundred per  
25      cent comfortable in effecting any kind of change

1       pursuant to the process, is the EA Document itself,  
2       because the EA Act clearly talks about an environmental  
3       assessment as amended. And we have held, the Board,  
4       through a series of cases, that we view the process as  
5       a process, not just limiting itself to a document, and  
6       includes any amendments which may be brought forward  
7       through evidence at a hearing, where a hearing is in  
8       fact being held.

9                 So those are sort of some of the  
10       problems. And we feel that many of the parties are  
11       going to be out there taking a look at how they are  
12       going to formulate their own suggested conditions of  
13       approval and may well be suggesting numerous amendments  
14       to other types of documents; and if we follow through  
15       with Mr. Freidin's position on behalf of the Ministry  
16       that at the end of this day you might like to have the  
17       approval in the form of stand free documents so that  
18       somebody has a guide to the planning process, it  
19       becomes, in the Board's view, a very integral question  
20       as to how we are going to handle this, and we would  
21       like the assistance of counsel to put forward their  
22       submissions as to what our jurisdiction is.

23                 Obviously we are going to review those  
24       submissions and listen to argument and then come out  
25       with what we would consider to be the appropriate



1 ruling and that will, therefore, guide the parties as  
2 to how they will formulate their conditions of  
3 approval.

4 MR. CAMPBELL: Mr. Chairman, I think that  
5 is helpful. I think there are just two comments that I  
6 would like to add.

7 First, it is apparent I think from  
8 discussions this week that the only document that the  
9 Board feels entirely comfortable with in terms of  
10 amending it, to use your words, is the one document  
11 which MNR has indicated it does not propose will be the  
12 document that guides timber management planning in  
13 Ontario, so I think it is very important to get this  
14 question determined.

15 THE CHAIRMAN: Well, when I say  
16 'comfortable', what I am saying is, it doesn't mean  
17 that we have reached any conclusion on amending the  
18 other documents.

19 MR. CAMPBELL: I understand.

20 THE CHAIRMAN: It is just that we don't  
21 think there is much question from a legal standpoint on  
22 whether we can amend the EA Document, Exhibit 4.

23 MR. CAMPBELL: I just think it is  
24 important for people who might read this in the  
25 transcript to understand that based on at least the

1       answers to my questions earlier this week it seems  
2       quite clear that the one document that you have  
3       described in that category is the one that will not be  
4       relied on for guiding timber management in Ontario.

5               Secondly, just to give some clarification  
6       of the scope of the problem, my recollection is that  
7       the documents which fall into the first category; that  
8       is, ones that would be caught in the Rubrik, if you  
9       will, of Barrie and Innisfil and our government policy  
10      documents, consist of the timber production policy...

11             THE CHAIRMAN: I would suggest things  
12      like the moose habitat guidelines perhaps, the tourism  
13      guidelines perhaps.

14             MR. CAMPBELL: Well, they are described  
15      as provincial in the sense that MNR applies them across  
16      the province, but I don't believe they have any Cabinet  
17      approval.

18             THE CHAIRMAN: Oh, all right. So they  
19      may not fall in that category.

20             MR. CAMPBELL: The only one that I am  
21      aware of that has Cabinet approval, and perhaps Mr.  
22      Freidin could correct us as soon as is convenient if he  
23      has a chance to review it, because I think in my  
24      recollection the only one in the first category is the  
25      Timber Production Policy itself, and we have had

1 evidence on that matter of course, but I don't think  
2 there is anything else.

3 And I certainly would want to know if I  
4 am wrong in that, as I am sure -- I really rise on  
5 behalf of other parties as well--

6 THE CHAIRMAN: Right.

7 MR. CAMPBELL: --who would want a clear  
8 statement if there is anything else that they see as  
9 falling in that category.

10 THE CHAIRMAN: But even if it isn't a  
11 government Cabinet-approved policy, the other policies  
12 like the moose habitat guidelines, the fisheries  
13 guidelines, the tourism guidelines, we would like  
14 assistance on whether those can be amended as a result  
15 of the Board's jurisdiction to impose conditions.

16 MR. CAMPBELL: Yes, they are certainly  
17 important in the method of carrying out the undertaking  
18 and are critical to that and that is an important  
19 question.

20 And I don't mean to take away from that  
21 at all, I think it's just -- I want to be clear about  
22 that first category because it's the one where all the  
23 law resides.

24 THE CHAIRMAN: Yes. And I don't think  
25 there is a lot of law residing on the other documents



1       that we are talking about; and there is not a lot, I  
2       don't think, in terms of law apart from what the Board  
3       might have said from time to time in decisions on the  
4       scope of its jurisdiction which has been substantially  
5       untested in the courts as to its power to impose  
6       conditions of approval.

7                   MR. CAMPBELL:  No, but I think the Board  
8       has, as you point out, been helpful at regular  
9       intervals in speaking to that matter.

10                  THE CHAIRMAN:  Yes.

11                  MR. FREIDIN:  I adhere with Mr. Campbell  
12       and I will be equally interested in identifying  
13       potential Cabinet-approved policies; in fact, one that  
14       might have been approved, for instance, may have been  
15       the Moose Management Policy.

16                  I am not sure that is a matter that  
17       anybody would making submissions upon, there may be  
18       other bases upon which somebody might object to dealing  
19       with that particular policy, but that is another policy  
20       which has a provincial --

21                  THE CHAIRMAN:  Well, we just feel this is  
22       a crucial legal question that should be determined at  
23       the earliest opportunity because it will greatly assist  
24       the parties into how they are going to manage their  
25       suggestions as to what the ultimate decision might look

1       like.

2                   MR. CAMPBELL:   And I think in light of  
3       Mr. Freidin's remarks it is really important to  
4       understand what falls in that first category and I  
5       confess, through probably my own slough, I did not  
6       realize that the Moose Management Policy was Cabinet  
7       approved.   Undoubtedly my friend Mr. Sutterfield would  
8       have set me straight on that matter in no uncertain  
9       terms very quickly, but he hadn't taken the opportunity  
10      yet.

11                  MR. FREIDIN:   I said may have.

12                  MR. COSMAN:   Mr. Chairman, just following  
13      on that.   It would be very helpful if perhaps by the  
14      end of next week and before we make our submissions the  
15      following week if we could be advised by Mr. Freidin as  
16      to what the level of approval is of the relevant  
17      policies.

18                  THE CHAIRMAN:   Okay.   And the Board would  
19      further ask any of the parties - and certainly the ones  
20      that have the resources to do so - if they would kindly  
21      provide the Board with any relevant law on this  
22      question in terms of case law.   There may be some that  
23      we are unaware of and it may be quite relevant.

24                  MR. CAMPBELL:   I think --

25                  THE CHAIRMAN:   I won't look at the

1 parties I am suggesting might have those kinds of  
2 resources, but some have resources that are better than  
3 others, certainly resources that are better than the  
4 Board's.

5 MR. FREIDIN: Some of those resources are  
6 only natural though.

7 THE CHAIRMAN: Okay. I would suggest  
8 that that afternoon would be the appropriate time to  
9 address this matter.

10 MR. CAMPBELL: I just leave then the  
11 question with you that I did undertake to pass on from  
12 Ms. Swenarchuk about doing it in Toronto.

13 THE CHAIRMAN: Well, okay. We can  
14 certainly deal with that because we would like to also  
15 put out for consideration by the parties the  
16 possibility of holding the two days next week in  
17 Toronto and that is because, as we understand it, we  
18 won't be starting until Wednesday morning, we would  
19 just have Wednesday and Thursday, we are dealing  
20 essentially with just direct evidence which would mean  
21 that you wouldn't probably have a great deal of  
22 exhibits to worry about, except the ones going in in  
23 direct, there is only I think four members of that  
24 panel involved, and it would probably be more  
25 convenient for everyone not having -- or at least the



1 parties coming from southern Ontario, not having to  
2 come up here for just the two-day period.

3 MR. FREIDIN: Well, Mr. Chairman, I  
4 wouldn't tend to -- I do hesitate to speak on behalf of  
5 Ms. Murphy on this matter. Over the lunch break  
6 hopefully I will be able to contact her and obtain her  
7 views on your suggestion.

8 THE CHAIRMAN: Okay.

9 MR. FREIDIN: And report back.

10 THE CHAIRMAN: And as far as the place to  
11 conduct the argument, we could consider holding it in  
12 Toronto. Do any of the parties object for the legal  
13 submissions relating to --

14 The problem is Mr. Edwards and Ms.  
15 Bair-Muirhead as well who may have some difficulties,  
16 but of course there is difficulties on the other side.

17 Actually when the Board thinks about it,  
18 if we are coming up for the following morning in any  
19 event, which we would be, it would probably make more  
20 sense to hold the argument up here and just come up the  
21 Tuesday morning.

22 MR. FREIDIN: And by the way, you are  
23 talking about examination-in-chief; that is next week,  
24 next week is the Wednesday, Thursday the 8th and 9th.

25 THE CHAIRMAN: That is what we are

1 talking about.

2 MR. FREIDIN: All right. But the date  
3 you are talking as I think you're talking about as  
4 having the legal argument in Toronto --

5 THE CHAIRMAN: That was the following  
6 week.

7 MR. FREIDIN: Oh, all right.

8 THE CHAIRMAN: We are dealing with two  
9 different weeks here. Next week we are suggesting we  
10 hold the sitting for the two days in Toronto.

11 MR. FREIDIN: All right.

12 THE CHAIRMAN: The following week we were  
13 considering holding the submissions on the Tuesday  
14 afternoon in Toronto but holding the rest of the  
15 session up here.

16 Since we have to fly in that night  
17 anyways and it will inconvenience at least two of the  
18 parties up here, perhaps we will hold the session up  
19 here in any event; that is, the submissions on the  
20 legal argument.

21 MS. SEABORN: Mr. Chairman, I note in my  
22 calendar there is also a scoping session scheduled for  
23 the 15th for Dean Baskerville's evidence and I would  
24 expect that most of the major parties would be  
25 addressing the Board on that issue.

1                   THE CHAIRMAN: All right. Now, as far as  
2                   the scoping session for Baskerville, we have been  
3                   trying to get ahold of Mr. Turkstra and unfortunately  
4                   we haven't yet been successful; we hope to today. We  
5                   want to make sure that he's available for that scoping  
6                   session, we think that is important and we'll advise  
7                   you as to when the actual scoping session will be.

8                   Everybody has the deadlines in mind with  
9                   respect to the submission of statements of issue  
10                  regarding Baskerville's evidence. We think it's the  
11                  9th -- is it the 9th?

12                 MR. FREIDIN: The 9th.

13                 THE CHAIRMAN: The 9th of November, the  
14                  deadline for those submissions, and we won't get to see  
15                  them really until probably the following week. So,  
16                  therefore, we want them in on time in order to hold the  
17                  scoping session on the 15th, if we can.

18                 MS. SEABORN: So Thursday the 9th of  
19                  November?

20                 THE CHAIRMAN: That's right. Five days  
21                  later we want to remind you is the date for the  
22                  submission of the Panel 17 statements of issue.

23                 MR. FREIDIN: Friday, November the 17th?

24                 THE CHAIRMAN: That's right. And then we  
25                  are holding that scoping session on the --



1 MR. FREIDIN: 22nd.

2 THE CHAIRMAN: 22nd.

3 Okay. We will adjourn for an hour.

4 MR. FREIDIN: Yes, if I might give you a  
5 list of exhibits and the witnesses as well. They can  
6 figure out over the lunch hour who might get which one.

7 Exhibit 881, which are the computer runs  
8 for spruce, Exhibit 895A documentation in relation to  
9 the Marceau Lake Cottagers Association, Exhibit 903C  
10 which is an article dealing with the Hydro EA, Exhibit  
11 589 the National Forest Sector Strategy. If you could  
12 arrange to have Exhibit 905 which is a map available,  
13 Exhibit 906 which is the Tedesco article, Exhibit 807 -  
14 I am not even sure what that is - it may be the  
15 Fisheries Management Planning Manual.

16 THE CHAIRMAN: Whatever it is you will  
17 question on it; right?

18 MR. FREIDIN: Guaranteed. Exhibit 908,  
19 Exhibit 382 which is the spruce silvicultural guide,  
20 and the not to be forgotten Exhibit 911.

21 THE CHAIRMAN: Very well. We will return  
22 at one o'clock.

23 MR. CHURCHER: Are you sure that is 807  
24 or 907 because you gave those in the order 905, 906,  
25 807, 908. It would seem logical to me, but I am not a

1 forester, so what do I know.

2 MR. FREIDIN: Tell you what, get 807 and  
3 907.

4 MR. CHURCHER: On the safe side. Be  
5 prepared.

6 ---Luncheon recess taken at 11:55 a.m.

7 ---On resuming at 1:00 p.m.

8 THE CHAIRMAN: Thank you. Be seated,  
9 please.

10 MR. FREIDIN: Okay.

11 THE CHAIRMAN: Mr. Freidin, I understand  
12 over the lunch hour you considered the matter about  
13 relocating the hearing next week.

14 MR. FREIDIN: Yes. I spoke to Ms. Murphy  
15 and she has indicated to me that it is not, almost  
16 possible, she feels from our point of view to have the  
17 hearings in Toronto next week, we would prefer that we  
18 stay in Thunder Bay because arrangements have been  
19 made.

20 THE CHAIRMAN: Well, we have also  
21 received an indication from Mr. Edwards that he opposes  
22 that, and that combined with your problems will mean  
23 that we will return here next week. So we are doing it  
24 on the basis, you will finish today, we will arrive  
25 next Tuesday in the evening and be ready to start on

1 Wednesday at 8:30.

2 MR. FREIDIN: Well, I am pleased to say  
3 that Ms. Murphy may be ready to go on Wednesday morning  
4 and so may Ms. Blastorah and I am going to think of  
5 something else to do, probably like work on Dean  
6 Baskerville's statement of issues.

7 MR. FREIDIN: Okay.

8 THE CHAIRMAN: Excuse me, just to finish  
9 that, but we will be also coming back the following  
10 week, I want to make it clear on the record, to deal  
11 with the submissions regarding the conditions of  
12 approval and continuing on with the evidence on the  
13 Wednesday and Thursday of the week following.

14 So we are coming up here in the morning  
15 of the 14th and we will be starting at 1:00 p.m. with  
16 the submissions.

17 Very well.

18 RE-DIRECT EXAMINATION BY MR. FREIDIN:

19 Q. I had to start with you, Mr. Kennedy.  
20 The first question I want to ask you about regards  
21 maps. And to put things into context, I am going to  
22 have to refer you to some of the questions and answers  
23 that were asked of you by Ms. Swenarchuk. And the  
24 question that I am going to be leading to is the  
25 ability to produce maps and what kind of maps.



1                   Now, Ms. Swenarchuk was asking you a  
2                   number of questions regarding map requirements and the  
3                   evidence in the witness statement outlining the  
4                   difficulties with the reproduction of maps.

5                   At page 24376 of the transcript you  
6                   observed firstly that it has always been a requirement  
7                   of the Timber Management Planning Manual to have a  
8                   generalized map which shows the areas of operations for  
9                   five years; and, secondly, that you were - and I am  
10                  quoting you now:

11                  "...exploring the idea of including  
12                  additional maps with all copies of the  
13                  plan and making some of those maps  
14                  readily valuable to the public, in  
15                  particular, the values map."

16                  You then indicated that the reason for  
17                  not making them available at the present time was  
18                  difficulty with technology.

19                  Ms. Swenarchuk then asked you the  
20                  following question, and you gave the following answer,  
21                  and this is what my question arises out of. She says:

22                  "Would it be so difficult just to colour  
23                  in two copies of it and send one to the  
24                  EA Branch in Toronto as opposed to only  
25                  having one in the office, and wouldn't

1                   that be a simplified, at least interim  
2                   form of solution?"

3                   Your answer was:

4                   "Yes, it would be possible to do that."

5                   My question for you is: Which map or  
6 maps were you referring to when you gave that evidence?

7                   MR. KENNEDY: A. At that time I was  
8 speaking specifically of the values map.

9                   Q. You said that it would be possible to  
10 do that, and you have not adopted that approach as an  
11 interim form of solution at this time. Is there any  
12 particular reason for that?

13                  A. No, there isn't.

14                  THE CHAIRMAN: Well, can we go the one  
15 step further, Mr. Freidin, and ask the followup; are  
16 you going to?

17                  MR. FREIDIN: I think we will have to  
18 deal with that in terms of whether we will add an  
19 amendment to our terms and conditions, Mr. Chairman.

20                  THE CHAIRMAN: Well, just a moment. Were  
21 you talking, Mr. Kennedy, in the interim being in the  
22 very near future, or in the interim being some time  
23 towards the end of the hearing or after the decision is  
24 rendered?

25                  MR. KENNEDY: I would think that the

1 plans that are -- the planning teams that were  
2 attending our training sessions this year that have  
3 just begun the planning exercise could undertake that  
4 commendment. So those would be plans that are due in  
5 '91 -- April 1, '91.

6 THE CHAIRMAN: So, as we understand it,  
7 you are sort of undertaking effectively to say that  
8 with all the new plans for which the planning teams are  
9 presently being trained, you can provide the second  
10 copy of the values map to the EA Branch in Toronto. Is  
11 that what you are saying?

12 MR. KENNEDY: Yes.

13 THE CHAIRMAN: Okay.

14 MR. FREIDIN: Q. Sticking with you, Mr.  
15 Kennedy, some questions about planning teams.

16 A number of questions were asked  
17 regarding term and condition No. 1. A suggestion  
18 during cross-examination of Ms. Swenarchuk was that  
19 industry got some sort of a privileged position  
20 compared to other forest users. Do you recall that  
21 line of questioning?

22 MR. KENNEDY: A. Yes, I do.

23 Q. And during the evidence you said, and  
24 I am quoting:

25 "Currently government has given us the



1 responsibility to manage the forest and  
2 we do believe that there is ample  
3 opportunity for people to be involved  
4 through the public consultation."

5 Who were you referring to when you said  
6 'us'? When you said that the Ontario government has  
7 given 'us' the responsibility to management forest?

8 A. That is referring to the Ministry of  
9 Natural Resources.

10 Q. In regard to timber management and in  
11 particular achieving the purpose of the undertaking, is  
12 that responsibility shared in any respect?

13 A. The responsibility I would suggest is  
14 not shared, however the -- I will leave it at that.

15 Q. Is any other particular party  
16 involved at these hearings involved in the management  
17 in any way of the timber resource for the purposes of  
18 meeting the purposes of the undertaking?

19 A. Yes, those individuals that are  
20 involved in the forest industry are directly involved  
21 in implementing the undertaking.

22 Q. Can anyone on the planning team  
23 advise me whether on some Crown management units the  
24 annual work schedule is partially written by the  
25 company -- the company representative? I'll repeat the

1 question. Is anyone aware -- sorry.

2 MR. FLEET: A. I was going to say, I  
3 presume you mean the panel not the planning team.

4 MR. KENNEDY: A. I believe you began  
5 your question, Mr. Freidin, with: Can anyone on the  
6 planning team...

7 Q. Oh no, I am sorry. Can anyone on  
8 this panel, I am sorry, advise if on some Crown  
9 management units the annual work schedule is partially  
10 written by the company forester?

11 MR. KENNEDY: A. Yes. I have had  
12 experience in that regard where sections of the annual  
13 work schedule were written by a company forester  
14 pertaining to the licence area that they were  
15 authorized with.

16 Q. Anybody else have that type of  
17 experience?

18 MR. FLEET: A. Mr. Freidin, it is the  
19 responsibility -- it's my understanding that it's the  
20 responsibility of FMA companies to produce their own  
21 annual work schedules, they write the majority of them.

22 Q. Right. I am talking specifically on  
23 Crown management units.

24 A. Oh, I'm sorry.

25 Q. Have you had any experience of that

1       happening where a company forester has become involved  
2       in writing part of the annual work schedule for the  
3       Crown management unit?

4               MR. MULTAMAKI: A. It has been my  
5       experience that on at least one Crown management unit  
6       that I can think of the company has a great deal of  
7       input into the annual work schedule, however, that  
8       annual work scheduled is prepared under the direct  
9       supervision of the Ministry unit forester. But, yeah,  
10      the company forester does have a great deal of input  
11      into it.

12             Q. The annual work schedule has to be  
13      approved by the MNR; is that correct, Mr. Multamaki?

14             A. That's correct.

15             Q. That was the same in the case that  
16      you referred to, Mr. Kennedy?

17             MR. KENNEDY: A. Yes, that's correct.

18             Q. Mr. Groves, were you going to say  
19      something?

20             MR. GROVES: A. Yes, Mr. Freidin. I  
21      have been on Crown management units in Chapleau  
22      District where both the local industry and the unit  
23      foresters jointly developed annual work schedules.

24             Q. And do you believe, gentlemen, that  
25      being involved perhaps as an advisor to the planning



1 team during the preparation of the plan for those Crown  
2 management units would assist those company foresters  
3 in any way in fact becoming involved in preparing parts  
4 of the annual work schedule?

5 MR. KENNEDY: A. Yes, being involved as  
6 a planning team advisor would assist them.

7 Q. Thank you. Mr. Kennedy, Ms.  
8 Swenarchuk asked you a number of questions regarding  
9 plan objectives and whether they are quantitative or  
10 qualitative.

11 At page 24397 of the transcript she made  
12 reference to the United States National Forest Plan and  
13 she asked, and I quote:

14 "Have you ever looked at a U.S. National  
15 Forest Plan, Mr. Kennedy?

16 A. Yes, I have had the occasion.

17 Q. Right. Were quantitative goals for  
18 values other than timber are required?

19 A. Yes, in their style of plan it is  
20 required."

21 My question, Mr. Kennedy, is: What did  
22 you mean by 'their style of plan'?

23 A. By that, without getting into any  
24 details at that time, I was referring to the fact that  
25 the type of plan that they prepare for forest is more

1       akin to our District Land Use Guidelines that are  
2       prepared for districts, rather than our timber  
3       management plans, in that the U.S. Forest Service plans  
4       do not go into operational details for a five-year term  
5       such as we do. They are not recording specific actions  
6       to be taken in the plan for the five-year term.

7                   Q. And can you advise me, Mr. Kennedy,  
8       do the District Land Use Guidelines have quantitative  
9       targets for non-timber values?

10                  A. Yes, they do.

11                  MR. FREIDIN: If I could have one moment,  
12       Mr. Chairman.

13                  Q. Sticking with the subject matter of  
14       non-timber objectives, Mr. Kennedy. During evidence on  
15       the topic of whether there should be quantitative  
16       objectives for non-timber programs in timber management  
17       plans, the Chairman referred to the use during timber  
18       management planning of guidelines for non-timber values  
19       such as tourism and moose.

20                  You agreed with him that to the extent to  
21       which you take those guidelines into account that you  
22       are, and I am quoting:

23                  "...in that sense obliged to include --"

24                  And I am quoting the Chairman:

25                  "...in that sense, obliged to include the

1 impact of objective statements in these  
2 other resource programs even though it is  
3 not formally a part of the timber  
4 management planning process."

5 Now, in response to the comment from the  
6 Chairman about including the non-timber objectives in a  
7 timber management plan in a formal way, or as a term  
8 and condition, you suggested some caution and you  
9 stated - and I am quoting from page 24402 of the  
10 transcript - you said:

11 "I would put some caution on that  
12 suggestion in that it may be misleading  
13 to members of the public and other  
14 reviewers that, in fact, those objectives  
15 and associated targets have been  
16 developed in the timber management plan  
17 and that clearly is not the case."

18 My question for you, Mr. Kennedy, is: Is  
19 there some undesirable implications or consequence of  
20 such a mistaken belief in the minds of the public?

21 MR. KENNEDY: A. Well, currently as it  
22 is a timber management plan, one of the more often  
23 mistaken beliefs that they could develop is that all of  
24 those items are being developed, those items being the  
25 non-timber targets for non-timber objectives that are



1 being developed in the timber management plan, that is  
2 not the case.

3 They would be misled if they thought that  
4 those items were being developed in that plan, and may  
5 overlook other opportunities to participate in  
6 developing those kind of targets in the other planning  
7 exercise such as the development of fisheries  
8 management plans, one of the other resource management  
9 plans that we have.

10 Q. Is it fair that if those objectives  
11 are not being developed in the plan, then those  
12 particular objectives would not be ones which would be  
13 debated and decided upon within the timber management  
14 planning process?

15 A. That is correct. The timber  
16 management planning process is not the place to  
17 participate to address those concerns, as the correct  
18 place would be in the development of the other resource  
19 management plan.

20 Q. Thank you. Now, for both you and Mr.  
21 McNicol. Sort of jumping along later into the  
22 evidence, there were some questions about - and I think  
23 this was again from Ms. Swenarchuk - some questions  
24 about reference to wildlife strategy as opposed to  
25 objectives.

1                   And I have some questions arising out of  
2           that. Mr. Kennedy, at page 25128 you indicated that  
3           there is no requirement that the wildlife management  
4           strategy for the forest management unit be explained --  
5           for the unit be explained in the timber management  
6           plan.

7                   MR. FREIDIN: It starts at line 17 if you  
8           are looking at the transcript, Mr. Chairman.

9                   Q. You did indicate, however, that if  
10          there was an overlap between the areas being managed  
11          for moose and caribou and areas proposed for  
12          operations, and I took it you meant timber operations,  
13          you:

14                   "...would expect to see that kind of  
15                  indication and the kind of management  
16                  approach that would be used."

17                   Along the same lines, talking about  
18          caribou and moose, Mr. McNicol, at page 25142, lines 19  
19          to 22, you agreed that moose and caribou prefer  
20          different habitat, that featuring moose as a species to  
21          manage will not necessarily provide caribou habitat and  
22          that, to quote you:

23                   "It would have been helpful to have  
24                  stated in the plan the wildlife  
25                  management strategies being used in the

1 area being operated in for timber  
2 purposes."

3 And my question for one of you, or both  
4 of you is: If that was done, if what both of you were  
5 sort of talking about doing was actually done, should  
6 the public expect that the objectives and the targets  
7 of the wildlife program are up for debate and  
8 development within the timber management planning  
9 process. Mr. Kennedy?

10 MR. KENNEDY: A. No, they should not  
11 expect that. The references that I was referring to  
12 and I believe Mr. McNicol has referred to them as well  
13 today, as well during cross-examination; that is a  
14 preamble to Table 4.12 indicating the manner in which  
15 the various species would be managed in a general  
16 sense, general habitat sense on the management unit.

17 Q. Mr. McNicol?

18 MR. McNICOL: A. That's correct.

19 Q. Mr. Kennedy, if there was such a  
20 requirement imposed by the Board, would the Ministry  
21 want the flexibility to design or choose the manner in  
22 which that information was conveyed?

23 MR. KENNEDY: A. Yes, we would want to  
24 retain that in order to properly mesh it with the true  
25 strategies that are being implemented in the timber



1 management plan that had been developed in the plan  
2 along with public consultation.

3 Q. Thank you.

4 THE CHAIRMAN: And that's if the Board  
5 required some details concerning the wildlife  
6 objectives and targets to be set out in the planning?

7 MR. FREIDIN: No, no.

8 THE CHAIRMAN: Sorry.

9 MR. FREIDIN: Their suggestion that the  
10 strategy be explained in some way, the both witnesses  
11 were talking about indicating -- outlining some part of  
12 the management strategy.

13 And I am saying, if in fact you are taken  
14 up on your comments and it gets imposed as a term and  
15 condition, would you want the flexibility as to how you  
16 actually went about designing or choosing the manner in  
17 which that information was conveyed.

18 THE CHAIRMAN: Which may be outside the  
19 plan?

20 MR. FREIDIN: Q. Well, let's assume that  
21 it's in the plan for the purposes of my hypothetical,  
22 and it had to go in the plan, would you want the  
23 flexibility to in fact determine how -- or to design or  
24 choose the manner in which that information got  
25 reflected in the plan?

1 MR. KENNEDY: A. Yes, I would.

2 THE CHAIRMAN: And are you assuming that  
3 it would be reflected in the plan, as opposed to being  
4 brought up at the public information sessions, for  
5 example, or something like that?

6 MR. KENNEDY: I was assuming in the plan,  
7 but equally so, I can think that there may be  
8 additional situations or different situations of  
9 approaching it by use of posters, et cetera, at an  
10 information centre which would reach a wide variety of  
11 the audience.

12 THE CHAIRMAN: Thank you.

13 MR. FREIDIN: Q. Mr. Kennedy, I just  
14 can't leave you alone. Ms. Swenarchuk asked you some  
15 questions about silvicultural ground rules and she  
16 referred you to Exhibit 813A at page 154 and maybe you  
17 should just take a look at that so that you are clear  
18 what it is I am going to be asking you about.

19 MR. KENNEDY: A. Could you repeat the  
20 page number, please?

21 Q. 154. And on the first full paragraph  
22 which begins:

23 "Sometimes..."

24 A. Yes.

25 Q. She referred you to that paragraph

1       which dealt with situations where it is not possible to  
2       finalize the preferred combination of silvicultural  
3       activities until the area has been harvested and  
4       inspected.

5                       I want you to take a look at that and I  
6       am going to ask you some questions about that topic.  
7       Okay?

8                       A.   Yes.

9                       Q.   Now, during the questioning you  
10      indicated that in some cases the final silvicultural  
11      prescription would be determined after harvest and you  
12      gave some examples where it was, in your view, best to  
13      finalize the prescription after harvest.

14                      What did you mean by 'final prescription'  
15      in that context?

16                      A.   In that case, I am referring to the  
17      items that are in the second line of that paragraph and  
18      that is the specific combination of prescriptions that  
19      would be outlined in the silvicultural ground rule that  
20      now have been matched up to a particular piece of  
21      ground.

22                      Q.   So it's choosing something from the  
23      silvicultural ground rules which has already been  
24      approved in the plan?

25                      A.   Yes, it's choosing the treatments



1 from the approved silvicultural ground rules and  
2 identifying which piece of geography they will be  
3 implemented on.

4 Q. Now, carrying on with that  
5 discussion, I want to ask you a couple of questions  
6 which arose from the cross-examination by Mr. Campbell  
7 yesterday.

8 Mr. Campbell asked a number of questions  
9 about the different quality of data upon which  
10 decisions are made and he suggested that the quality of  
11 data would vary; for example, if on the one hand you  
12 had soil survey information and on the other hand you  
13 didn't have that but rather were making your decisions  
14 based on an expectation of the soil characteristics in  
15 a given area.

16 Do you recall that line of questioning  
17 yesterday?

18 A. Yes, I do.

19 Q. Mr. Campbell also suggested that in  
20 assessing the quality of judgments made it is important  
21 to know the level or the quality of the information  
22 upon which it is based.

23 And my question for you, Mr. Kennedy, is:  
24 If you are in one of those situations where a final  
25 prescription is not made until you are actually out in

1 the field, perhaps even after harvest, and let's say  
2 someone is concerned with the quality of the judgment  
3 to address potential environmental effects, could a  
4 final assessment of the quality of that judgment which  
5 would be implemented be made at the time the  
6 silvicultural ground rule was prepared?

7 A. No, it could not.

8 Q. It would be premature to make that  
9 kind of decision in reviewing the draft plan or the  
10 approved plan only in those circumstances?

11 A. Yes, it would.

12 Q. Mr. Fleet, Exhibit 881. If I may  
13 have a moment I may not have to ask you this question  
14 based on what happened this morning.

15 Mr. Waldram says I can't let you off the  
16 hook. You have Exhibit 881, it's the --

17 MR. FLEET: A. Yes.

18 MR. FREIDIN: It's pages 38 and 39 from  
19 the Red Lake Timber Management Plan which is found in  
20 Book 1 of Exhibit 814. It's two pages, but if you  
21 don't have the actual exhibit, Mr. Chairman, you will  
22 find it at page 38 and 39 of Book 1.

23 It's in fact a computer -- those two  
24 pages are computer runs for -- the one is for the jack  
25 pine working group, 39 is for the spruce working group.

1 THE CHAIRMAN: 814?

2 MR. FREIDIN: I think 814. Is that the  
3 one that has got the Red Lake Plan in it, Book 1. Have  
4 I got the wrong number?

5 ---Discussion off the record

6 THE CHAIRMAN: This is a printed -- this  
7 is two text pages for 38 and 39.

8 MR. FREIDIN: I'm sorry. I know where it  
9 is.

10 Q. Mr. Multamaki, let me show you...

11 MR. FREIDIN: All right. You don't have  
12 it. I'm sorry, Mr. Chairman, it's in one of the  
13 appendices.

14 THE CHAIRMAN: Well, I probably have it  
15 in the excerpts.

16 MR. FREIDIN: You may not. All right,  
17 you have got it.

18 If you can just take a look at Mrs.  
19 Koven's, I don't think a lot turns on looking at the  
20 actual numbers.

21 THE CHAIRMAN: We've memorized, it's  
22 okay, go ahead.

23 MR. FREIDIN: Q. That's the computer run  
24 and my copy, if you go over to the spruce, second page.

25 MR. FLEET: A. Yes.



1 Q. And you look at the third column, the  
2 NSR 5 column that Ms. Swenarchuk spent some time on,  
3 you go to the bottom, and you have got that 35,057  
4 hectares in that category?

5 A. Yes.

6 Q. Now, during your cross-examination  
7 Ms. Swenarchuk established that a number of the  
8 variables used in the MAD calculation including  
9 regeneration succession are speculative and in one of  
10 her questions she made the statement, and I quote her:

11 "What is not speculative..."

12 She said:

13 "...is the level of cut."

14 My question is: In relation to the  
15 computer runs, is it an accurate statement to say that  
16 the level of cut described right through to rotation  
17 will actually occur?

18 A. No.

19 Q. Even when you are considering just  
20 the five-year term of the plan, Mr. Fleet, is it an  
21 accurate statement to say that the level of cut planned  
22 will actually occur?

23 A. No.

24 Q. Mr. Kennedy, in relation to that  
25 35,057 hectares at page 24486 of the transcript, you

1 stated that in relation to that figure that the number,  
2 and I quote:

3 "... did not reflect an occurrence."

4 Could you explain what you meant by that?

5 MR. KENNEDY: A. By that I meant that it  
6 was not that that amount of area has accumulated out  
7 there, and that it's purely speculative that that would  
8 result from the actions taken.

9 Q. And at page 24485, after some  
10 discussion about the computer run, Mr. Martel referred  
11 to that figure and said:

12 "It seems to me just an add-on year after  
13 year with no built-in factors which tell  
14 you how much of it is eventually going to  
15 get around to being satisfactorily  
16 regenerated or so on."

17 Does the recalculation of the MAD land  
18 base every five years and the recalculation of the MAD  
19 itself address Mr. Martel's concern in any way?

20 A. Yes, it does.

21 Q. How?

22 A. By during the course of the term of  
23 the plan, free to grow assessments are made and the  
24 results of those free to grow assessments are reported  
25 both annually and then summarized in the report of past

1 forest operations and that information is used in part  
2 to update forest resources inventory information at the  
3 beginning of the new term, the new plan, and that new  
4 or revised information base is used in the MAD  
5 calculations for the preparation of the new plan.

6 So, in that sense, the MAD calculation is  
7 used to update information and also make predictions on  
8 the basis of that new information.

9 THE CHAIRMAN: Well, that is also the  
10 indication; is it not, in the continual MAD runs  
11 throughout the course of the five-year plan itself?

12 I realize the FRI data won't be updated  
13 in terms of land base every time you do a MAD run, but  
14 when you are doing the updated MAD runs, are you not  
15 basing some of the information on going into that on  
16 what is actually occurring?

17 MR. KENNEDY: Mr. Chairman, in addition  
18 to the free to grow area, we are also updating the  
19 forest management resource inventory information to  
20 account for those areas that have been depleted by  
21 harvest, by fire and windthrow, as well as the  
22 increasing age of the forest over the five years and,  
23 as well, those areas that are returning to the MAD land  
24 base by virtue of them now being free to grow.

25 MR. FREIDIN: Q. The Chairman made a



1 comment - well, I will ask you a question. Every time  
2 you do a MAD run -- do a MAD run for the purposes of  
3 preparing a timber management plan, are those MAD runs  
4 based on updated MAD land base?

5 MR. KENNEDY: A. At the beginning of the  
6 calculation, yes, each MAD run produced for each forest  
7 unit us starting out with updated information.

8 MRS. KOVEN: That is at the beginning of  
9 the five-year term?

10 MR. KENNEDY: Yes, and I have led  
11 evidence that that is the best information that is  
12 available to us, and we do not make any additional  
13 predictions of occurrences that might occur 15, 20  
14 years into the plan; we instead rely on the gathering  
15 of information over the five years and then updating it  
16 at the beginning of the next term.

17 THE CHAIRMAN: And without certainly  
18 going back to anything which we really covered in Panel  
19 4 with the FRI, is that continually updated or are  
20 there set periods of time when you have a major  
21 revision to the FRI?

22 I can't remember what was said. I think  
23 it was covered.

24 MR. KENNEDY: There is a combination of  
25 both actually occurring now. Traditionally forest

1 resources inventory would be updated on that time  
2 scale, about 20 years; however, with the advent of the  
3 technology we spoke of this morning, computers, we are  
4 able to keep that information, the forest resource  
5 inventory information updated on an annual basis in  
6 fact at the local management unit level or on some  
7 other periodic basis and keep a revised set of  
8 inventory information at all times.

9 MR. FREIDIN: Q. Mr. Multamaki, you gave  
10 evidence that the regeneration succession of black  
11 spruce was 65 per cent and that although the 35 per  
12 cent of the area was not regenerating to spruce, it was  
13 regenerating and could be going into another working  
14 group such as pine. Do you recall giving that  
15 evidence?

16 MR. MULTAMAKI: A. Yes.

17 Q. And, Mr. Fleet, I believe you made a  
18 similar comment in Volume 143 pages 24478 to 79. Do  
19 you recall making a similar statement?

20 MR. FLEET: A. Yes.

21 Q. Now, Mr. Multamaki, in relation to  
22 your specific management unit, do you know where some  
23 or all of that 35 per cent is going; that is, what has  
24 happened to that land base in terms of regeneration?

25 MR. MULTAMAKI: A. Yes. There is strong

1       indications that portions of that 35 per cent are going  
2       into the jack pine working group, a portion of it is  
3       going into poplar working group and, in fact, a portion  
4       is in fact going to, over the long term, regenerate  
5       naturally back into the spruce working group itself.  
6       But it certainly wouldn't be in the free to grow period  
7       that is indicated in the MAD run for spruce.

8                   Q.   How do you know that, Mr. Multamaki,  
9       or putting it another way, on what are you basing that  
10      opinion?

11                  A.   Partly it's based on field knowledge  
12      and personal experience with the unit in that areas  
13      harvested that contain residual poplar, for example,  
14      which -- and are regenerating, you see them, year after  
15      year you cut them, they are not treated and they come  
16      back to poplar.  If they were spruce working group  
17      prior to being harvested they come back into poplar.

18                  Other areas you leave them and they are  
19      coming back to jack pine.  Some of them in fact have --  
20      are shown in the free to grow table from, I guess,  
21      previous plan periods where areas of spruce have been  
22      harvested, we go in and do an untreated survey on it  
23      and, in fact, it comes out, the results of those  
24      surveys show that they are now poplar or now jack pine.

25                  Q.   Okay, thank you.



1 THE CHAIRMAN: What was the basis of your  
2 comment a second ago that eventually they will go back  
3 to black spruce?

4 MR. MULTAMAKI: Yes. What I am referring  
5 to there is that there is incidental regeneration to  
6 black spruce. On the -- on most units in the boreal  
7 forest what takes place is that on areas harvested,  
8 it's left, nothing is done with it and, in fact,  
9 because of the adjacent stands of standing mature black  
10 spruce they seed in over a period of time - it may be  
11 10, 15, 20 years - and, in fact, they regenerate from  
12 that natural seed source that is both around it and  
13 there may, in fact, even be residual seeds left in the  
14 soil media and on the ground after harvest operations.

15 And what you see is that over the long  
16 run 10, 15, 20 years, spruce does come back into those  
17 areas with no treatment.

18 THE CHAIRMAN: So are you sort of setting  
19 the proposition that if you are harvesting an area  
20 where the predominant working group is black spruce and  
21 do nothing, that eventually it will come back to black  
22 spruce, in general terms; there may be exceptions?

23 MR. MULTAMAKI: In some cases. The  
24 problem is, is that I can't point to a specific piece  
25 of ground and say that will come back with no

1 treatment, I am just not sure.

2 MR. KENNEDY: Speaking in a successional  
3 sense?

4 THE CHAIRMAN: Yes.

5 MR. KENNEDY: Yes, I would say that is  
6 the case.

7 THE CHAIRMAN: And that happens to be one  
8 specie that its natural regeneration characteristics  
9 are such that it will essentially perpetuate itself  
10 over time?

11 MR. KENNEDY: Yes.

12 THE CHAIRMAN: Because that isn't the  
13 case with all species?

14 MR. KENNEDY: That's correct. There are  
15 other species that require certain conditions and if  
16 those conditions are not present within a particular  
17 time frame that specie could be reduced, its presence  
18 could be reduced on an area. I am thinking now --  
19 would you like an example?

20 THE CHAIRMAN: No, no, no, no, I don't  
21 want to go that far into it.

22 I am just trying to correlate in my mind  
23 the comments of trying to change the working specie  
24 through harvesting and trying to place that against  
25 that, at least when you are working in black spruce,

1 that is not likely to happen; if you leave it alone  
2 long enough and don't plant some other specie, it's  
3 likely to come back to black spruce?

4 MR. KENNEDY: Yes, in very simplistic  
5 terms, yes.

6 MR. FREIDIN: Mr. Chairman, at the risk  
7 of having someone be upset with me saying anything, I  
8 just refer you to the evidence of Mr. Hynard who  
9 indicated the percentage roughly of the area of the  
10 undertaking where you might even find site  
11 characteristics which would be conducive to the  
12 potential natural regeneration of black spruce for the  
13 purposes of actually getting black spruce as the  
14 species coming back in.

15 THE CHAIRMAN: Right.

16 MR. FREIDIN: It was given in Panel 10  
17 orally.

18 Q. Mr. Bisschop, starting out with some  
19 questions on that arose -- or questions from Mr.  
20 Lindgren. And just so you know where I am going to be  
21 going, during the cross-examination by Mr. Lindgren the  
22 phrase "constituent part of the plan" was used.

23 And I am going to review a very short  
24 passage in the transcript where the phrase was used and  
25 then I am going to ask you what you meant by that



1 phrase in that specific context.

2 And if you want to, you will find the  
3 reference in the transcript at Volume 146 commencing at  
4 page 24912. You may want to have that in front of you,  
5 Mr. Bisschop.

6 24912, all right. And I am going to be  
7 asking you and will refer you to the specific portion  
8 in a moment, Mr. Bisschop.

9 Mr. Lindgren asked you a number of  
10 questions about FEPP and, in particular, the difference  
11 between the FEPP and the timber management planning  
12 process.

13 The subject being discussed at the  
14 particular portion of the transcript that I have  
15 referred you to was the public's opportunities to  
16 discuss the purpose of the undertaking during timber  
17 management planning. Do you recall that line of  
18 questioning, Mr. Bisschop?

19 MR. BISSCHOP: A. Yes, I recall.

20 Q. Now, at page 24912 starting at line 8  
21 Mr. Lindgren asked, and I quote:

22 "...isn't it true that by the time the  
23 first notice goes out the purpose and  
24 rationale of the plan or any part of the  
25 plan has, in fact, already been

1 developed?"

2 And your answer was:

3 "I would argue that that subject of  
4 purpose will have been emphatically  
5 determined as an outcome of this  
6 hearing."

7 So in that answer you made no specific  
8 reference to the phrase 'any part of the plan'. Mr.  
9 Lindgren then said:

10 "Then the answer to my question is yes?"

11 You said:

12 "Could you repeat the question, please."

13 And he did so almost in the similar  
14 fashion but not quite identical. He said: Then the  
15 question was -- well, he says:

16 "The question was: By the time that the  
17 first notice is issued under the timber  
18 management planning process, in fact the  
19 purpose and rationale of the plan or any  
20 constituent part of the plan has already  
21 been determined?"

22 In that case you said:

23 "Yes, through the hearing."

24 Q. My question for you, Mr. Bisschop, is  
25 that in your second answer you said that the purpose

1 and the rationale not only of the plan but also any  
2 constituent part of the plan will be determined through  
3 the hearing. What did you mean by any constituent part  
4 of the plan in that context?

5 MR. BISSCHOP: A. I meant that by his  
6 reference to constituent part of the plan was to any  
7 activity that is proposed in a plan, in the case of the  
8 example he was using, roads.

9 Q. Thank you.

10 THE CHAIRMAN: Well, aren't we dealing -  
11 maybe I am missing it - but aren't we dealing with the  
12 purpose of the plan is to prepare a timber management  
13 plan which is comprised of perhaps various activities  
14 as opposed to any confusion with the purpose of this  
15 undertaking?

16 MR. FREIDIN: I think, as I hear Mr.  
17 Bisschop, he's saying that the purpose of the  
18 undertaking will be dealt with in this hearing and the  
19 activities which --

20 THE CHAIRMAN: I thought it was dealt  
21 with to a large extent already in this hearing in the  
22 discussion up front at the beginning of the hearing as  
23 to whether we are dealing with timber management or  
24 management of the entire forest estate, et cetera, when  
25 we were talking about the delineation of the



1       undertaking before us.

2                   MR. FREIDIN: That is correct, and  
3 perhaps maybe if I could ask another question or ask  
4 the question the same way, maybe it was the basis for  
5 my concern.

6                   Q. Should your statement regarding  
7 constituent part of the plan, Mr. Bisschop, being  
8 determined, be interpreted to say that by the time the  
9 first notice goes out that the particulars of the  
10 actual activities to take place on the unit for the  
11 next five years have been predetermined?

12                  MR. BISSCHOP: A. That is exactly how I  
13 would understand it, yes.

14                  Q. The activities that will occur in  
15 terms of them being access, harvest, renewal and  
16 maintenance. But would you say that the particulars as  
17 to where they were going to occur and how they were  
18 going to occur would be predetermined by the time the  
19 first notice went out on that particular unit for the  
20 next five years?

21                  A. No.

22                  Q. Mr. Davison, a few questions about  
23 salvage operations. You agreed in relation to salvage  
24 operations that the point of salvage operations is to  
25 take the dead or dying trees out. And in response to a

1 question regarding the percentage of merchantable trees  
2 you might harvest you said, and I am quoting you, at  
3 page 25019, quote:

4 "Well, if the prescription was for a  
5 clearcut operation to occur, then we  
6 would follow just that and we would  
7 harvest the merchantable -- all  
8 merchantable trees in that area."

9 Do you recall giving that evidence?

10 MR. DAVISON: A. Yes, I do.

11 Q. If the salvage occurred in an area  
12 allocated for harvest in the existing timber management  
13 plan and there was an area of concern prescription in  
14 that area, would that prescription influence the  
15 salvage operations in terms of how the salvage  
16 operations might be conducted?

17 A. We would follow the prescription of  
18 the area of concern.

19 Q. And if the salvage operation occurred  
20 in an area which was not allocated in the existing  
21 timber management plan but needed an amendment to the  
22 plan, would any consideration be given to non-timber  
23 values in the salvage area?

24 A. If an area wasn't allocated and  
25 because of the damage caused by insect, for example,

1 spruce budworm, we would have to follow the regular  
2 amendment process and, in doing so, we would have to  
3 take into account all values.

4 MR. FREIDIN: One moment, please.

5 Q. Mr. Fleet, a question arising for you  
6 from Volume 147 at page 25243. I don't think you are  
7 going to need that transcript, but it was at that page  
8 that Mrs. Koven asked Mr. Bisschop whether the Ministry  
9 of Natural Resources perceived the granting of a  
10 bump-up by the Minister of the Environment to be a  
11 failure of the timber management planning process, and  
12 Mr. Bisschop responded at page 25244, quote:

13 "Not a failure of the process, a failure  
14 to be able to satisfy the intervenor,  
15 yes, but I think that we accept that  
16 there will be situations in which we will  
17 not satisfy. That is part of the, as I  
18 am sure the Board is very well aware,  
19 part of the business of environmental  
20 assessment."

21 "...So I wouldn't want to say that we  
22 will accept the fact that the process  
23 will have failed."

24 Now, Mrs. Koven did not suggest in her  
25 questioning that a bump-up request would indicate



1 failure of the process, but I understand that in the  
2 correspondence regarding the Marceau Lake Cottagers'  
3 Association, which is Exhibit 895A, Mr. Ward the  
4 Director of the Environmental Assessment Branch  
5 suggested in his April 7th, 1989 memo -- and maybe you  
6 could just turn to that.

7 Do you have that letter?

8 MR. FLEET: A. Yes, I do.

9 MRS. KOVEN: What is the exhibit number,  
10 Mr. Freidin?

11 MR. FREIDIN: The exhibit number is 895A.

12 Q. And will you turn to page 2 of that  
13 letter, Mr. Fleet.

14 MR. FLEET: A. I have that.

15 Q. And you will note at the top, this  
16 particular situation involved the application or the  
17 use of the tourism guidelines I believe; is that  
18 correct?

19 A. Yes.

20 Q. Now, Mr. Ward says at the top of page  
21 2:

22 "MNR tourism value guidelines require  
23 mandatory consultation between MNR and  
24 objecting parties for the purpose of  
25 reaching an agreement regarding

1 timber management. In this case,  
2 consultation has occurred but no  
3 agreement has been reached. An impasse  
4 exists and it appears that MNR will  
5 proceed on their own terms and this has  
6 left the cottagers association no option  
7 but to request a designation."

8 Then the last sentence says:

9 "This brings into question the usefulness  
10 of the tourism guidelines as a planning  
11 tool on which to base timber management  
12 decisions."

13 Did the Ministry respond to that  
14 suggestion by Mr. Ward?

15 A. Yes, they did.

16 Q. And did they do so in the June 16th  
17 letter from Mr. Kenrick?

18 A. That's correct.

19 Q. And do we find that answer on page 2  
20 starting in the last full paragraph on page 2 and going  
21 over on to page 4 -- pardon me, on to page -- yes, on  
22 the bottom of page 2 going over on to the next page,  
23 page 3?

24 A. That would be the reference, yes.

25 Q. All right. The Ministry didn't agree

1 with that particular view?

2 A. No, we wouldn't have characterized it  
3 the way that MOE did.

4 Q. Now, Mr. Bisschop, Exhibit 895A was  
5 part of the material which was put together in response  
6 to the designation request.

7 I think you recall the larger body of  
8 documents which had the letters and the excerpts from  
9 the District Land Use guidelines, et cetera, which  
10 actually went to the Ministry of the Environment?

11 MR. BISSCHOP: A. Yes, I believe that's  
12 Exhibit 895B.

13 Q. That's correct. Now, that was an  
14 information package put together for a request that  
15 there be a designation under the EA Act.

16 And when you testified about the Ministry  
17 of Natural Resources responding to a bump-up request,  
18 you spoke of the Ministry of Natural Resources  
19 providing MOE with information to assist them in  
20 understanding the situation.

21 Is the type of information that we have  
22 in 895A and B the type of information package that you  
23 were referring to?

24 A. Yes.

25 Q. Thank you. Sticking with you and the



1 issue of bump-up, Mr. Bisschop. There were a number of  
2 questions asked about whether the bump-up could  
3 pre-identify -- pardon me, whether the Ministry could  
4 pre-identify situations where it would support a  
5 bump-up request or request an individual environmental  
6 assessment itself, and you indicated that the Ministry  
7 did not provide for that in this Class EA.

8 I want to refer you to a question from  
9 the Chairman at page 25267, lines 2 to 10. Now --

10 A. Should I have that?

11 Q. I don't think so. Quoting the  
12 Chairman:

13 "Okay. So what you are saying - I just  
14 want to get this straight - what you are  
15 saying is that under the activities that  
16 might be approved pursuant to this Class  
17 EA, you cannot envisage circumstances  
18 whereby MNR might say that because of a  
19 particular environmental impact in a  
20 particular situation you would want to  
21 see an individual EA; is that what you  
22 are saying?"

23 I need the book because I don't have your  
24 answer. Can somebody give me -- Mr. Bisschop, it was  
25 one of your unusually short answers:

1 "That's correct."

2 MR. MARTEL: That's one.

3 MR. FREIDIN: That's why I couldn't find  
4 it.

5 Q. Now, Mr. Bisschop, should your  
6 comments that the quote 'you cannot envisage' - or, you  
7 know, using the Chairman's question, that 'you cannot  
8 envisage such circumstances', be interpreted as saying  
9 that in a real life situation that regardless of the  
10 facts, that the Ministry of Natural Resources would  
11 never consider or actually agree that an individual  
12 environmental assessment be submitted?

13 A. No.

14 Q. Can you explain that?

15 A. I think in the reference to the  
16 transcripts and in the early part that you just quoted,  
17 I indicated that in this Class EA we did not define  
18 situations in which we could agree. That doesn't mean  
19 that in the practical application of the process at  
20 some time MNR might not concur with the request.

21 Q. So what you are saying is you, in  
22 this Class EA, didn't pre-identify situations?

23 A. Exactly.

24 Q. Now, one follow-up question, and the  
25 follow-up --

1 THE CHAIRMAN: Well, could I ask a  
2 follow-up question here?

3 MR. FREIDIN: All right.

4 THE CHAIRMAN: If that's the case, why  
5 wouldn't you want to be flexible enough so that you  
6 didn't have to put the Minister of the Environment  
7 through the designation, the bump-up designation  
8 process?

9 If you identified a controversial enough  
10 situation that you felt perhaps it should undergo a  
11 complete assessment - and I don't want to make  
12 reference to the Red Squirrel situation or something  
13 like that - but if that were the situation and it was  
14 an activity that fell within the Class EA, but you knew  
15 that there was going to be enough concern on the part  
16 of the public or opposition, et cetera, that it would  
17 end up in the Minister of the Environment's lap on a  
18 designation request, why couldn't the Ministry of  
19 Natural Resources identify that situation at an earlier  
20 stage and say: Okay, we will request an individual EA.

21 MR. FREIDIN: But you are talking about  
22 at an earlier stage of the actual situation arising on  
23 the ground or out of the management unit?

24 THE CHAIRMAN: That's right. At a stage  
25 when the Ministry decided that it was going to conduct



1 an activity, such as build a road, and then in your  
2 field activity or consultations with the various  
3 affected stakeholders it became quite evident to the  
4 Ministry that this was going to erupt into a fairly  
5 controversial issue, and perhaps it was one that you  
6 could avoid the whole formal bump-up process by  
7 agreeing that perhaps it should go to an individual EA.

8 MR. FREIDIN: Q. And I think, if I can  
9 just put the question. Mr. Bisschop, are you ruling  
10 out the possibility of that actually occurring?

11 MR. BISSCHOP: A. No, I am not ruling  
12 that out.

13 I think, Mr. Chairman, what I would say  
14 is I would -- MNR would assume that we would do  
15 everything we can to try to address that concern  
16 through the normal planning process anyway to try to  
17 resolve the issue. That's perhaps where I should leave  
18 it.

19 Q. Just so it is clear, this possibility  
20 then of the Ministry saying in a real life situation  
21 that it felt that an individual EA is required and  
22 actually initiated it themselves or would agree to one,  
23 to a request, that possibility could occur even where  
24 the activity giving rise to the concern was an activity  
25 which was approved by the order of this Board and was

1 planned in accordance with the timber management  
2 planning process?

3 A. Could you repeat that, please?

4 Q. Okay. I hate trying to rephrase  
5 these questions. Could that possibility -- or, you  
6 said that in a real life situation the Ministry would  
7 never -- in a real life situation the Ministry wouldn't  
8 say that, regardless of the facts, we are never going  
9 to consider a bump-up request, agree to it, and we will  
10 never ever think about actually submitting an  
11 individual EA ourselves. That's what I have understood  
12 you've said.

13 And all I am saying is: Does that  
14 statement go to the extent that you would be saying  
15 that that would occur, that possibility would occur in  
16 relation to an activity which was approved by the  
17 Board - building a road - even where the planning  
18 process that you put forward had been applied?

19 A. Yes.

20 Q. Okay. That's all I wanted, one of  
21 those nice short answers.

22 Mr. Fleet, I will try to be quick about  
23 this one, some questions from Mr. Edwards about  
24 potential tourism.

25 Mr. Edwards asked you a number of

1 questions regarding the example that you had of a major  
2 amendment in Exhibit 813A commencing on page 495. That  
3 was the particular activity which involved Mr. Kozak's  
4 outpost camp becoming involved and discussed in the  
5 material?

6 MR. FLEET: A. Yes.

7 Q. At page 500, if you want to turn to  
8 it. And all I want to do here is just quickly lay the  
9 paper trail. At page 500, in the item -- fourth item,  
10 identified values, there is reference to the outpost  
11 camp of Mr. Kozak?

12 A. Yes.

13 Q. Mr. Edwards noted that although Mr.  
14 Kozak's outpost camp was close to the lake in question,  
15 the lake was not identified as a lake with any  
16 potential for tourism. And in the transcript you  
17 stated that:

18 "Mr. Kozak did attend the information  
19 centre and had no problems with the  
20 proposals."

21 My question for you: Is it documented in  
22 the material? And if I might to speed you up or to  
23 speed this up, turn to page 509, please?

24 A. Yes, you will find that on page 509.

25 Q. That's the comment sheet--



1 A. Yes.

2 Q. --that was filled out by Mr. Kozak?

3 A. Yes, Mr. Freidin.

4 Q. Page 495, it is documented again in  
5 item No. 9?

6 A. That's correct.

7 Q. What is that document?

8 A. I believe that's the proposal for a  
9 major amendment.

10 Q. So it is in that proposal that you  
11 indicated that a comment sheet was completed by Mr.  
12 Kozak and you indicated what you were proposing to do  
13 to address his concern?

14 Q. Could you repeat that, please, sir?

15 Q. Perhaps you could just read -- the  
16 Board can read it for themselves. I don't want to take  
17 the time.

18 There is a reference there, and then  
19 you will also find a reference on page 500; am I  
20 correct, the actual area of concern planning record for  
21 that amendment?

22 A. Yes.

23 Q. Okay. Mr. Kennedy, you and Mr. Fleet  
24 agreed with Mr. Edwards that where they are  
25 identified -- where they are identified, potential

1 tourism values can be a value addressed by the AOC  
2 planning process. Do you recall that?

3 MR. KENNEDY: A. Yes, we did.

4 Q. Commencing at page 25376, you spoke  
5 to their identification as opposed to their protection  
6 after being identified and you said:

7 "Where they are known and identified,  
8 yes, I would suggest that it is something  
9 that could be added to a values map."

10 And then you said:

11 "I would suggest also that there may be  
12 some difficulty in arriving at  
13 identification of high potential areas,  
14 in that the Ministry of Natural Resources  
15 staff would be looking to other sources  
16 of information other than our own files  
17 to obtain information such as that..."

18 What are the other sources of information  
19 other than your own files that you were referring to?

20 A. At that time I was referring to the  
21 involvement of Ministry of Tourism and Recreation staff  
22 and the information that they have.

23 Q. Okay. Mr. Bisschop, you indicated to  
24 Mr. Edwards that a reserve by definition will be an  
25 area that roads do not go in. Do you recall saying

1 that?

2 MR. BISSCHOP: A. Yes.

3 Q. Can a decision in a timber management  
4 plan that created a reserve be changed or amended at a  
5 later date?

6 A. Yes, through the amendment procedure.

7 Q. Thank you. Mr. Bisschop, would you  
8 get Exhibit 903C, that's the article in relation to the  
9 southwestern Ontario transmission line by Hoglund and  
10 Buck. Do you have that, Mr. Bisschop?

11 A. Yes, I have it.

12 Q. Now, Mr. Hanna spent some time with  
13 you on this document and he asked you a number of  
14 questions about the usefulness of mathematical models.

15 And in one of your answers you directed  
16 the Board to the comments on the last page of this  
17 document and, in particular, the last bullet on the  
18 left-hand column of the last page regarding how the  
19 Joint Board in that case dealt with that information.

20 Do you recall that?

21 A. Yes, I do.

22 Q. Now, could you confirm for me that  
23 those comments that you referred the Board to were made  
24 about the simulation model where the discussion of the  
25 simulation model starts on the preceding page, on page



1 227, halfway up the right-hand column?

2 A. Yes, that's correct.

3 Q. Now, Mr. Hanna indicated that the  
4 article dealt with two models, not just the summation  
5 model, but also the analytic hierarchy process model,  
6 or known as AHP, and would you confirm that that  
7 particular model is discussed starting on 227 in the  
8 left-hand column?

9 A. Yes, that's correct.

10 Q. And, Mr. Bisschop, in relation to  
11 that particular model, did the article comment on how  
12 such models are viewed by the public?

13 A. I think my recollection is that it  
14 did, but...

15 Q. Let me assist you. On page 227, in  
16 the last full paragraph before the heading The  
17 Weighting Summation Model, did the authors indicate how  
18 such models are viewed by the public and, if so, could  
19 you read it?

20 A. You would like me to read in the  
21 paragraph or...?

22 Q. Well --

23 THE CHAIRMAN: That's supposing it  
24 contains something relevant to what you are asking; is  
25 that correct, Mr. Freidin?

1 MR. FREIDIN: Q. Well, does it say  
2 that --

3 MR. BISSCHOP: A. I could read the  
4 second sentence.

5 Q. What is the second sentence?

6 MR. FREIDIN: It is relevant.

7 THE CHAIRMAN: This is not leading  
8 evidence much.

9 MR. FREIDIN: Well, we could have had him  
10 search, I am sure he would have found it.

11 THE CHAIRMAN: Go ahead, Mr. Bisschop.

12 MR. BISSCHOP: I will just read the  
13 second sentence.

14 "This can lead to suspicion regarding  
15 the validity of the model among not only  
16 members of the public, external interest  
17 groups and hearing boards, but also  
18 internal legal staff and some members of  
19 the study team."

20 MR. FREIDIN: Q. And what is it that can  
21 lead to the suspicion?

22 MR. BISSCHOP: A. The complex  
23 mathematics.

24 Q. Okay, thanks.

25 THE CHAIRMAN: Would Dr. Osborn

1 understand it, do you think?

2 MR. BISSCHOP: Probably more than most.

3 MR. FREIDIN: Q. Mr. Bisschop, during  
4 cross-examination regarding the National Forest Sector  
5 Strategy there was some questioning regarding the role  
6 of the public in developing objectives.

7 Can you get that document, I just want to  
8 make sure you know what I am referring to. When you  
9 get it, would you turn to page 10.

10 MRS. KOVEN: What exhibit is that, Mr.  
11 Freidin?

12 MR. FREIDIN: It is Exhibit 589.

13 MRS. KOVEN: Thank you.

14 MR. FREIDIN: Q. Now, Mr. Bisschop, have  
15 you had an opportunity to review this in a general way?

16 MR. BISSCHOP: A. In general, yes.

17 Q. All right. And do you have page 10  
18 in front of you?

19 A. Yes.

20 Q. And you were referred to the third  
21 full paragraph of that page and, in particular, the  
22 third sentence starting with the words:

23 "Residents...", it says:

24 "Residents, including the forest  
25 industry, the recreation industry and



1 wildlife conservationists, as well as  
2 other users should participate in  
3 defining the objectives for the area in  
4 concrete and measurable terms."

5 Do you recall that being cited to you by  
6 Mr. Hanna?

7 A. Yes, although I must admit my  
8 recollection is somewhat vague about that.

9 Q. I would like to confirm a number of  
10 facts to put things into context, if I might, Mr.  
11 Bisschop. Does that report deal with all of the  
12 provinces in Canada?

13 A. Yes. That's my understanding, yes.

14 Q. Is there a separate section dealing  
15 with the situation in each province?

16 A. Again, through my casual reading I  
17 believe so.

18 Q. Do you recall whether there is any  
19 section describing any differences between the  
20 provinces in terms of either the history or the present  
21 approach to land use planning or resource management  
22 planning?

23 A. As I recall, within the context of  
24 the discussion for each individual province.

25 Q. Okay, thank you. Mr. McNicol, a

1 question about late winter habitat. There was some  
2 discussion about areas which have characteristics of  
3 late winter habitat for moose. And my question simply  
4 is: Does every area which has the vegetative  
5 characteristics of late winter habitat have to be  
6 identified as an area of concern?

7 MR. McNICOL: A. No.

8 Q. Could you explain that answer,  
9 please?

10 A. What you are attempting to do when  
11 you are applying the guidelines and managing moose  
12 habitat is to ensure that the mosaic of vegetation - by  
13 mosaic I mean vegetation of different types and  
14 different age-classes - is available with respect to  
15 that particular area for moose occupying the site.

16 Late winter habitat is an important  
17 component, but it is only one of the important  
18 components with regard to moose habitat. So to  
19 characterize all of the vegetation that would be  
20 categorized as late winter habitat as an area of  
21 concern would be ridiculous.

22 Q. Okay, thank you. Mr. McNicol,  
23 Exhibit 905, which is the allocation map or one of the  
24 allocation maps, it is up behind you, and in the  
25 transcripts starting at about page 25896 and running

1 through for some number of pages, right up to 903,  
2 there is a discussion about that particular allocation.

3 And, if I might, I would like to quote to  
4 you a question and answer which is found on 25901, this  
5 is Volume 150.

6 Mr. Hanna said:

7 "Okay, let's move along now to the next  
8 five-year allocation..."

9 All right. So you had that allocation  
10 there:

11 "...and let's assume that stand 49 is now  
12 cut..."

13 And can you just point out where stand 49  
14 is?

15 A. It is this stand that is indicated  
16 here. (indicating)

17 Q. And is that a stand which was planned  
18 to be cut in that particular five-year term, the one  
19 for which that map was prepared?

20 A. Yes, it is.

21 Q. Let me read the question to you and  
22 maybe you can help me because I am somewhat confused.  
23 It says:

24 "Okay, let's move along now to the  
25 next-five year allocation and let's

1 assume that stand 49 is now cut, which is  
2 the highly stocked conifer stand in the  
3 centre of the four lobes."

4 You said:

5 "Yes."

6 What were the four lobes that you were  
7 referring to?

8 A. The four lobes that I was speaking to  
9 in my explanation were here, here, here and here.  
10 (indicating)

11 Q. You are indicating the four sort of  
12 blocks, if I can say, marked in yellow in the left-hand  
13 corner of that map?

14 A. Yes.

15 Q. And now, what was -- he said stand 49  
16 in the centre of the four lobes, and you said yes. I  
17 mean, is there any part of stand 49 which is in the  
18 centre of those four or...

19 A. No, there is not. I think perhaps  
20 what Mr. Hanna was speaking of was stand 43 and perhaps  
21 stand 50.

22 Q. Okay. Because I will just read to  
23 you the question which followed:

24 "Would the 260..."

25 He is talking about the interim direction



1 now:

2 "...kick in at that point? This is the  
3 next -- this cut has taken place. In the  
4 next five-year allocation you are going  
5 to take out that residual block."

6 Now, you said:

7 "No, it would not kick in if that  
8 particular stand on its own is not 260  
9 hectares."

10 So are you telling me that you weren't  
11 referring to stand 49 but you were referring to some  
12 other stands when you made that comment?

13 A. I was trying to interpret Mr. Hanna's  
14 question, and what I thought he was referring to - and  
15 still believe what he was referring to - was what would  
16 happen if these four areas had been cut now, that plan  
17 is past, and now these stands that were bypassed  
18 originally show up in the next five-year operating  
19 plan.

20 Would those stands, in combination with  
21 these stands that may be a five year old cut-over now,  
22 when you look at all of this together, would this now  
23 become, given that this area is cut, would this all now  
24 become a 260-hectare or greater area of concern.

25 Q. All right. I think I understood your

1 evidence, it was just the numbers that confused me in  
2 the transcript.

3 But accepting then your understanding of  
4 what that discussion was all about, I think you  
5 indicated in your evidence that if the direction  
6 regarding clearcuts in excess of 260 hectares -- pardon  
7 me, if the direction regarding clearcuts in excess of  
8 260 hectares didn't kick in, for the reasons you've  
9 just indicated, am I correct there would no reporting  
10 requirement under the interim direction?

11 A. That's correct.

12 Q. Would the effect on wildlife of  
13 cutting those residual blocks be considered even though  
14 the cut was less than 260 hectares?

15 A. Oh, yes. When the biologist was  
16 assessing this particular area with regard to the new  
17 cut, which is in essence these white areas here that  
18 are adjacent to the areas that have already been cut in  
19 the past plan (indicating), he would be concerned -- he  
20 or she would be concerned about the potential for a  
21 lack of, in this case I would suggest, late winter  
22 cover because these areas are newly disturbed and do  
23 not have a late winter component.

24 This served as a late winter component  
25 during the previous plan. And now, during this plan,

1 it is going to be cut, so the biologist would be  
2 concerned about retaining a portion of those stands, I  
3 would suggest as a scenario, as late winter habitat in  
4 this new plan.

5 Q. Okay, thank you. Now, I want to ask  
6 you some questions arising out of a discussion that you  
7 and Mr. Hanna had about Mr. Todesco's document, which  
8 is Exhibit 906. I am not sure whether you really have  
9 to refer to that, but just have it in front of you.  
10 That's Exhibit 906.

11 Mr. Todesco said on page 36 of that  
12 document in reference to high quality moose habitat --  
13 all right, in relation to high quality moose habitat he  
14 said that:

15 "...the cut-over sizes should be limited  
16 to 130 hectares maximum..."

17 Is that correct?

18 A. Sorry, could you direct me to exactly  
19 where you are reading?

20 Q. Is zone M1 -- maybe it's on page 37.  
21 Is zone M1 the high quality habitat?

22 A. Yes.

23 Q. And on page 37:

24 "In zone M1, cut-over sizes should be  
25 limited to 100-130 hectares maximum in

1 all areas."

2 A. I am sorry, I had the wrong page.

3 It is page 37.

4 Q. Yes. I referred you to the wrong  
5 page and I apologize.

6 A. Okay.

7 Q. Okay. Now, there was no direction or  
8 no interim direction at the time that Mr. Todesco's  
9 report was prepared which imposed a reporting  
10 requirement for clearcuts in excess of 260 hectares or  
11 greater; is that correct?

12 A. That's correct.

13 Q. You acknowledged that and then you  
14 agreed that Mr. Todesco felt that the 260 hectares  
15 deviation would not be appropriate in these zones. Do  
16 you recall making that statement?

17 A. I'm sorry, you're suggesting that I  
18 said that --

19 Q. I think you agreed with the  
20 suggestion from Mr. Hanna that Mr. Todesco felt that  
21 the 260 hectares in that situation would not be  
22 appropriate?

23 A. Correct.

24 Q. Now, if Mr. Todesco faced the exact  
25 same situation today; that is, with the interim



1 direction in effect, would there be any reason to apply  
2 the guidelines in a less rigorous fashion than that  
3 suggested by Mr. Todesco in his document?

4 A. No, there would not be. You would be  
5 wanting to apply the guidelines rigorously given that  
6 this is a high capability area.

7 Q. And does the interim direction, Mr.  
8 McNicol, change the appropriate size of clearcuts for  
9 moose habitat which is recommended in the guidelines  
10 from 130 hectares, as it is said there, to 260 hectares  
11 or any other size?

12 A. No, it does not.

13 Q. Now, you were asked a number of  
14 questions about that paper again and I have some  
15 questions which arise out of an answer that you gave to  
16 two questions asked by the Chairman.

17 And you indicated that the information  
18 firstly contained in the Todesco document exists for  
19 other wildlife management units but it does not take  
20 the same form as the Todesco document. Do you recall  
21 that?

22 A. (nodding affirmatively)

23 Q. I want to refer you to page 29 of the  
24 Todesco document. I think you will find a map. Do you  
25 have that?

1                   A. I do.

2                   Q. Now, when you were referred  
3 specifically to the map on page 29, you indicated that  
4 this type of information in this form is available in  
5 many district offices and then the Chairman asked the  
6 following question, and I am quoting now from the  
7 transcript at page 25906. The Chairman says:

8                   "Let's go one step further. Mr. McNicol,  
9 is it the intention of the Ministry to  
10 have this kind of map as exhibited on  
11 page 29 which already exists in many  
12 offices in all the offices where moose  
13 are within that area?

14                  Your answer was:

15                  "Yes, Mr. Chairman, it is a precursor to  
16 the proper application of the  
17 guidelines."

18                  My question is: What did you mean by the  
19 word 'precursor' when you gave that evidence?

20                  A. What I meant was that to determine  
21 with what kind of rigor, if you will, you are going to  
22 apply the guidelines; i.e., are you going to be  
23 applying them rigorously, indicating that in particular  
24 that particular area where you are doing that you have  
25 high capability; or are you going to be applying them

1 less rigorously, indicating that the area in which you  
2 are going to do that does not have the capability to  
3 produce good moose numbers.

4 You need some kind of background  
5 information to allow you to make that assessment. This  
6 map is one format for that kind of information. It's  
7 probably the easiest format to use that information in.

8 Q. Do I take it then from your answer  
9 then that you can have proper application of the  
10 guidelines if you have that information, although it  
11 might be in a different form than Mr. Todesco's map?

12 A. That's correct.

13 Q. Thank you. Mr. Kennedy or Mr.  
14 Bisschop, I can't recall who got cross-examined on the  
15 District Fisheries Management Planning Manual, and in  
16 particular the evidence of Mr. Douglas in Panel No. 1.  
17 I think perhaps it was you, Mr. Bisschop. Have you got  
18 that document in front of you?

19 MR. BISSCHOP: A. Yes.

20 Q. Now, reference was made to the  
21 evidence of Mr. Douglas in Volume 4 of the evidence  
22 outlining some of the reasons for a common approach to  
23 resource management planning for all resources, and Mr.  
24 Douglas used fisheries management and timber management  
25 as examples in his evidence, and in his evidence he

1 said, and I am quoting:

2 "The general steps, principles are  
3 essentially the same for fisheries and  
4 timber."

5 My question for you is: To have a common  
6 approach and follow principles which are essentially  
7 the same, do you equate that with a requirement that  
8 the approach and the principles be identical?

9 A. No.

10 Q. Could you explain that?

11 A. I think, in terms of what Mr. Douglas  
12 was saying, it was a common approach so that it was  
13 understandable to the public that we deal with in  
14 Ontario about how the Ministry approaches resource  
15 management planning, but not necessarily would all of  
16 the individual steps and elements of the steps be  
17 identical for any resource -- for various resource  
18 management plans.

19 Q. Okay. This is a question which is  
20 for Mr. Groves, Mr. Fleet, Mr. Davison, Mr. Kennedy, I  
21 don't know, anybody who has had experience in the  
22 north, particularly dealing with the natives' use of  
23 the timber resource.

24 Mr. Hunter asked a number of questions  
25 about whether the concept of key users used in



1 fisheries management plans should be introduced into  
2 timber management plans and the use that he referred to  
3 during that line of questioning was the use of timber  
4 for fuelwood and for saw logs.

5 My question is: Do non-native people use  
6 Crown timber for fuelwood or for the saw logs for  
7 personal use or are native people the only users in  
8 that regard?

9 MR. GROVES: A. Mr. Freidin, in my  
10 experience I would say non-native people consume more  
11 for personally used saw logs and for fuelwood than do  
12 the native people in the two northern districts that I  
13 have worked in.

14 Q. All right. Is the experience any  
15 different for you, Mr. Kennedy?

16 MR. KENNEDY: A. My experience is no  
17 different.

18 Q. Mr. Multamaki?

19 MR. MULTAMAKI: A. My experience is no  
20 different.

21 Q. I assume it is going to be the same  
22 across the board; Mr. Fleet, Mr. Davison?

23 MR. DAVISON: A. Yes, I agree.

24 Q. Thank you. Mr. -- well, whoever can  
25 answer this question should be someone -- I am going to

1 ask a question about fisheries management plans and  
2 District Land Use Guidelines targets for fisheries  
3 management. And, Mr. Kennedy, you are the quarterback,  
4 you can either handle it or pass it off.

5 In Exhibit 908, which is the manual for  
6 fisheries management plans, at page 28 there is a  
7 comment that says:

8 "Any significant departure from the  
9 District Land Use Guideline targets will  
10 require an explanation in the management  
11 plan and would require a revision in the  
12 District Land Use Guidelines."

13 Now, the question asked at page 25987  
14 actually to Mr. Bisschop was:

15 "...in your opinion, do you have any  
16 objections to the insertion of a clause  
17 similar to that in the Class EA?"

18 So maybe you are the person who should  
19 attempt to deal with this, Mr. Bisschop. You indicated  
20 that dealing with the provision that would require a  
21 revision to the District Land Use Guideline, you said:

22 "...I could accept that, a statement that  
23 provides that direction that, where  
24 necessary, the plans say something about  
25 whether revisions might be required to

1 a DLUG, could be expressed in the  
2 process."

3 That answer was preceded by the  
4 statement:

5 "Again, without getting into the details  
6 of the direction that DLUG provides to  
7 timber management plans..."

8 Forget that reference, Mr. Bisschop.

9 In relation to fisheries management  
10 plans, do the District Land Use Guidelines have a  
11 target for fisheries management?

12 THE CHAIRMAN: Is there a question in  
13 there somewhere?

14 MR. FREIDIN: Yes, here it comes. Three  
15 questions.

16 Q. Do District Land Use Guidelines have  
17 targets for fisheries management?

18 MR. BISSCHOP: A. Yes.

19 Q. The management plan for fish, is it  
20 prepared for the district as one plan or are there a  
21 number of fisheries management units in the district?

22 A. No, there is one District Fisheries  
23 Management Plan.

24 Q. The target for fisheries management  
25 in the District Land Use Guideline, is it directly

1 linked to the target in fisheries management plans or  
2 can it be directly linked?

3 A. Yes.

4 Q. Thank you. A question arising out of  
5 a question from Mrs. Koven. It arises out of -- I am  
6 going to give this one to you, Mr. Kennedy.

7 It arises out of page 60 of the Timber  
8 Management Planning Manual dealing with problems and  
9 issues, and the discussion that took place about non --  
10 pardon me, administrative matters, whether they get  
11 dealt with in that section or not.

12 If you would just turn to page 60. I am  
13 not going to repeat the question from Mrs. Koven, but  
14 for your reference it is found at 26019. She was  
15 asking what the situation would be where the problem  
16 was non-administrative in nature.

17 Let me just take that sentence in the  
18 second paragraph under the heading Problems and Issues  
19 on page 60 and let's change administrative to  
20 non-administrative. So it will now read:

21 "Those..."

22 And it is referring to problems and  
23 issues:

24 "...of a non-administrative nature which  
25 cannot be addressed by planned actions in



1 the timber management plan should not be  
2 identified?

3 Now, if that was the wording, would that  
4 or would that not reflect the intent of that section?

5 MR. KENNEDY: A. If I could have a  
6 moment, please.

7 Q. I could read you the question from  
8 Mrs. Koven, I don't know whether it will be any easier.

9 A. I believe my answer is the same, in  
10 that the key here is they cannot be addressed in the  
11 plan.

12 Q. I'm sorry?

13 A. To me the key part of this sentence  
14 is that they cannot be addressed in the plan. If there  
15 is nothing that can be done in the plan about such  
16 items, then the preference would be not to include a  
17 discussion of the problem and issue.

18 Q. Thank you. Mr. Bisschop, a question  
19 arising out of some evidence you gave about term and  
20 condition No. 59. It is in Exhibit 700. Do you have  
21 that?

22 MR. BISSCHOP: A. Yes, I have it.

23 Q. Okay. I want to ask you a number of  
24 questions about your evidence about that term and  
25 condition and, in particular, its role related to

1 possible Timber Management Planning Manual amendments.

2 If I might, just a little bit of  
3 background. There was a number of questions that were  
4 asked of both you and Mr. Kennedy regarding possible  
5 amendments to the TMPM and whether any formal amending  
6 procedures should be required. Mr. Kennedy indicated  
7 that...

8 THE CHAIRMAN: Go ahead, we will catch  
9 up.

10 MR. FREIDIN: Q. ...that MNR wanted to  
11 retain flexibility to revise the manual by applying  
12 experience gained to make revisions which were minor in  
13 nature and which would not alter the intent of the  
14 Timber Management Planning Manual.

15 And can you agree with -- or do you agree  
16 with the statement made by Mr. Kennedy?

17 MR. BISSCHOP: A. Yes.

18 Q. You were then referred by Mr.  
19 Campbell specifically to the term and condition, and  
20 one of the questions you were asked was whether you  
21 could see any changes to a TM -- or, to the TMPM or a  
22 term or condition which would not fall within the  
23 words -- the first three words in 59(1), correction,  
24 clarification or improvement, and you answered no.

25 When that question was asked of you, the

1 last part of the paragraph, subparagraph 59(i) was not  
2 part of the question, there was no reference in the  
3 question to the timber management planning process.

4 Now, if you look at that term and  
5 condition in total, 59(i), including reference to the  
6 timber management planning process, can you advise me  
7 whether there are changes which could occur to the  
8 Timber Management Planning Manual which would not be a  
9 change in the timber management planning process?

10 A. Yes, and that would be in terms of  
11 the format of the product that's produced as a result  
12 of the process.

13 Q. Could you just expand on what you  
14 mean by that?

15 A. For example, there may be a desire to  
16 change the content requirements or the way the content  
17 requirments of a table are displayed that I do not  
18 equate --

19 MR. CAMPBELL: Just a minute, just a  
20 minute. Could I ask the witness to be clear. Those  
21 are two entirely different things, and I take the  
22 second one as being a correction.

23 I want to understand, because he said  
24 change in the content requirements or change the way  
25 the content is displayed. I take it that second part

1 of your phrase is a clarification? What you intend to  
2 speak to is format, not content?

3 MR. BISSCHOP: I think I do mean both,  
4 but perhaps there are others on the panel who could  
5 better explain it.

6 We may want to add, for example,  
7 additional contents to a table, that's what I'm  
8 thinking of, or we may want to change the way in which  
9 the contents of a table are displayed. So I think I am  
10 meaning both.

11 MR. CAMPBELL: Add or change?

12 MR. FREIDIN: Well, I think you have got  
13 his evidence.

14 Q. In those circumstances, Mr. Bisschop,  
15 where the amendment to the TPM in your view was not a  
16 change in process--

17 MR. BISSCHOP: A. Yes, I do not...

18 Q. All right. Would term and condition  
19 59(i) apply?

20 A. No.

21 Q. Thank you.

22 MR. FREIDIN: I think there is about just  
23 three or four more questions, Mr. Chairman.

24 THE CHAIRMAN: You've got seven minutes.

25 MR. FREIDIN: Q. Mr. Kennedy --



1 MR. CAMPBELL: Look at all those grins.

2 MR. FREIDIN: Q. Mr. Kennedy, would you  
3 quickly turn to Exhibit 911 and, in particular, Part 1,  
4 page 30. You tell me when you have got it.

5 MR. KENNEDY: A. Got it.

6 Q. Now, on that particular page --

7 MR. FREIDIN: Do you have it, Mr.

8 Chairman.

9 THE CHAIRMAN: (nodding affirmatively)

10 MR. FREIDIN: Q. On that particular page  
11 there are a number of bullet points, and if I could  
12 refer you to the bullet points 3 through 8, starting  
13 with need for site preparation, going down to planting  
14 parameters.

15 In your cross-examination from Mr.  
16 Campbell you acknowledged that these subject matters  
17 were observed in some of the plans which -- the  
18 portions of which we find in Exhibit 911; correct?

19 MR. KENNEDY: A. Correct.

20 Q. There were some questions about the  
21 last two bullets and you weren't too sure that you had  
22 seen those in any plans.

23 So Mr. Campbell then returned to the six  
24 which preceded and he said -- asked you whether you  
25 were saying that just the six are necessary to

1 consider, to which you responded, and I am quoting:

2 "They are being considered by planning  
3 teams where they are appropriate."

4 What did you mean by 'where they are  
5 appropriate'?

6 A. I meant that they would be considered  
7 for each - in the individual management unit sense - to  
8 address the kind of conditions that would be  
9 encountered on the management unit.

10 Q. Is it necessary or practical to  
11 require that the silvicultural ground rules in every  
12 timber management plan have each of those subjects  
13 addressed?

14 A. No.

15 Q. Why not?

16 A. Because there are items that are  
17 contained on this list which would not be -- which  
18 would not be necessary to address them in each and  
19 every management unit in the province.

20 Q. Mr. Campbell referred you to certain  
21 sections of various plans and he referred you a number  
22 of times to the silvicultural guide for the spruce  
23 working group. And if you could just get that document  
24 in front of you.

25 A. Yes.

1 Q. Exhibit 382, and turn to page 86.

2 You'll find that there is no number on that page.

3 A. Yes, I have it.

4 Q. And what we have there are a portion  
5 of the silvicultural specifications and regeneration  
6 standards for the Gordon Cousins Forest in the northern  
7 region; correct?

8 A. Yes.

9 Q. Is there any reason you can provide  
10 why the silvicultural ground rules for that particular  
11 management unit addresses seasons of harvest and ground  
12 pressure exerted by equipment, for example?

13 A. Yes. One of the main reasons that  
14 that -- very simply is that this area is within the  
15 Clay Belt of Ontario and, as such, the conditions that  
16 exist there require the silvicultural ground rules or  
17 silvicultural specifications to be tailored to match  
18 the conditions that are found.

19 Q. And those conditions don't apply  
20 everywhere across the area of the undertaking?

21 A. That's right. In other locations of  
22 the province those types of conditions are not found.

23 Q. Now, this question for Mr. Multamaki  
24 and Mr. Kennedy. Exhibit 911, Part 1, page 20, stand  
25 listings or a portion of the stand listings. Do you

1 have that, Mr. Multamaki?

2 MR. MULTAMAKI: A. I do.

3 Q. Mr. Kennedy?

4 MR. KENNEDY: A. I do.

5 Q. The right-hand column of this, Mr.  
6 Multamaki, is entitled: Silvicultural Prescriptions,  
7 and you indicated in your evidence that you had broken  
8 down that column by site description within the various  
9 working groups; is that correct?

10 MR. MULTAMAKI: A. Yes.

11 Q. Now, in relation to those entries you  
12 said, and I am quoting you as best as I can from my  
13 notes, you said in relation to those:

14 "You can't look at this as a simple  
15 matter of a list of Sb numbers."

16 Referring to black spruce numbers?

17 A. Yes.

18 Q. "That was the result of a lot of  
19 work. I believe one week of work would  
20 be insufficient to provide that  
21 information in the stand listings."

22 Now, when you made that estimate of time,  
23 were you including in that estimate of time the time  
24 for collecting the information which allowed you to  
25 make the estimates which we find in the right-hand



1 column?

2 A. Yes, I was.

3 Q. Okay. And, in brief, can you advise  
4 what the work that you did entailed, and I am more  
5 particularly interested in what was it that this work  
6 was designed to do, what were you trying to find out by  
7 this work which you say took more than a week?

8 A. What we are dealing with is the  
9 operational aspects of assigning a silvicultural  
10 prescription, for instance the Sb, Pj numbers here or  
11 silvicultural ground rules numbers to a specific area  
12 or operating block. And in a number of cases  
13 information had to be collected on those blocks prior  
14 to assigning that number.

15 Q. Did you need that information before  
16 you could in fact make the relationship on the ground?

17 A. If I understand your question, I  
18 needed the information -- or we needed the information  
19 prior to determining which Sb group, for example, it  
20 would fall into.

21 Q. Okay. Now, if I could refer you to  
22 something else you said - and, again, I have to quote  
23 from my notes because we don't have the transcript -  
24 you said in relation to those listings, you said:

25 "On the Red Lake Timber Management Plan

1 it was done because the unit was not  
2 large, staffing was reasonably good and  
3 inventory good, including personal field  
4 inspections. Relating it to other  
5 management units, it could be more  
6 difficult. Remember, the Red Lake Timber  
7 Management..."

8 Pardon me:

9 "...the Red Lake Crown Management Unit  
10 is not as complex as some others."

11 And then you provided a caution and you

12 said:

13 "You might not be able to do this for all  
14 units easily."

15 Why not?

16 A. Yes. When I made that statement I  
17 was thinking in terms of company -- some company  
18 management units that contain significant and numerous  
19 changes in land forms, geography, species types, soils  
20 types and moisture regimes and so on, and to assign --  
21 and that change may occur in, I guess, a number of  
22 areas across the unit itself which would mean assigning  
23 a number to it may be difficult or assigning the  
24 equivalent of my Sb numbers to any specific area may be  
25 difficult without some sort of field samples.

1 Q. Now, Mr. Kennedy, there was a  
2 question asked about - I think from the Chairman -  
3 about the ability to go and find a stand number on a  
4 map, an allocation map and make a determination as  
5 to -- or to link that to the silvicultural groundrules.  
6 I think you said in your evidence that you could do  
7 that now.

8 Do I recall your evidence correctly?

9 MR. KENNEDY: A. Yes, I believe you do.

10 Q. Now, if you go to a stand listing and  
11 it is 80 per cent spruce and you have a silvicultural  
12 ground rule which deals with spruce, I take it in that  
13 hypothetical you would be able to make the link in that  
14 general sense?

15 You can say it's a black spruce working  
16 group just by looking at the FRI map and you can say I  
17 have got a black spruce working group in my  
18 silvicultural ground rule and, in that respect, there  
19 is a link; is that correct?

20 A. There is a link in that respect, yes.

21 Q. Now, if you break down your working  
22 group of spruce in this hypothetical into, say, five or  
23 six different site types or site descriptions, would  
24 you in all cases be able to go to an allocation map,  
25 find the stand number and relate that stand number not

1 just to the working group generally, but to the  
2 specific -- or one of the specific site descriptions  
3 for that particular working group? Would you be able  
4 do that in all cases?

5 MR. CAMPBELL: Well, Mr. Chairman, I  
6 think Mr. Kennedy, after some long discussion  
7 yesterday, answered this very question with the flat  
8 assurance that that was what was required at pages 109  
9 and 110.

10 MR. FREIDIN: That's not what he said.  
11 He said that they could make the relationship and I am  
12 trying to clarify for the assistance of the Board and  
13 you, Mr. Campbell, the level of detail to which that  
14 could be done in all cases.

15 It can be done in all cases at the  
16 working group level and I thought it might be of some  
17 interest to know whether, in all cases, you can do it  
18 in the detailed fashion that I have suggested.

19 MR. CAMPBELL: Well, Mr. Chairman, I  
20 asked a long series of questions on that precise  
21 question, you intervened on it, I thought it was  
22 absolutely clear that it was able to be done in a  
23 detailed way according to what was required by the  
24 Timber Management Planning Manual.

25 I think what my friend is suggesting to



1 the witness is a complete withdrawal from what  
2 assurances were given in his testimony directly to you,  
3 Mr. Chairman, in response to a question and certainly  
4 it was a point where I said: Well, given that  
5 assurance, given the specific response to your  
6 question, that that was quite clear.

7 MR. FREIDIN: And I thought you maybe had  
8 misinterpreted the evidence and I was just trying to  
9 get Mr. Kennedy to clarify whether in fact you -- I'm  
10 not trying to be cute about this.

11 THE CHAIRMAN: But aren't we really  
12 interested, Mr. Campbell, in the end result, not so  
13 much in whether they gave an answer to a question which  
14 may or may not have been interpreted properly, but what  
15 in fact is the situation, what level of detail can you  
16 ascertain by this linkage?

17 And if there is an area to be clarified,  
18 then I think it would be beneficial to the Board and, I  
19 suggest, to yourself that that be clarified.

20 MR. CAMPBELL: Well, Mr. Chairman, in my  
21 submission it is perfectly clear on the record, there  
22 is nothing that remains to be clarified. The question  
23 is quite inappropriate.

24 THE CHAIRMAN: Well, with respect, Mr.  
25 Campbell, the Board disagrees.

1                   Mr. Kennedy, would you answer these  
2                   questions?

3                   MR. FREIDIN: And if you make me look  
4                   like a fool because I don't understand, that's fine  
5                   too, Mr. Kennedy, I just want to know.

6                   MR. KENNEDY: Were you going to pose the  
7                   questions again?

8                   MR. FREIDIN: Q. All right. You've  
9                   indicated that you could -- at that level of saying  
10                  there is the stand number, you can tell from the stand  
11                  listing, there is lots of evidence, what working group  
12                  it is, and if you had a working group in the  
13                  silvicultural ground rules dealing with that working  
14                  group you could make the relationship. There would be  
15                  the link; no question about that.

16                  All I am saying is: If you have got six  
17                  subcategories, site descriptions within the spruce  
18                  working group, would you in all cases be able to do, I  
19                  guess what I thought the Chairman was asking, go to the  
20                  map, pick out any stand that was in the allocation and  
21                  say: Ah-ha, it is spruce and be able to relate that  
22                  particular stand to the specific site description  
23                  within the spruce working group?

24                  Could you do that in all cases, is my  
25                  question?

1 MR. KENNEDY: A. In all places -- in all  
2 cases of plans prepared to date, no, you cannot do  
3 that.

4 Q. And why not, is there -- all right.

5 MR. CAMPBELL: Just a minute, Mr.  
6 Chairman. We already know that in all cases plans  
7 prepared to date - I took the witness carefully through  
8 that - that you couldn't do it. The issue I thought  
9 was it was required by page 109.

10 THE CHAIRMAN: Well, under the planning  
11 process that is being put forward for approval, will  
12 you be able to do it?

13 MR. FREIDIN: Q. Well, is it practical  
14 to do it right now in relation to every stand that  
15 maybe in an allocation and make that link specifically  
16 to a subcategory or a silvicultural -- pardon me, a  
17 site description within any particular working group?

18 MR. KENNEDY: A. There was some  
19 discussion. I think that there is a significant amount  
20 of work involved in doing that and there is a  
21 significant amount of information that needs to be  
22 referred to in order to do that, and I do think that  
23 there is a practical approach that can be developed  
24 that falls within the directions given on page 109 of  
25 Exhibit 7.

1 Q. And did you refer to that evidence  
2 this morning, or did you give that evidence this  
3 morning?

4 A. This morning or yesterday, I don't  
5 recall.

6 Q. Could you outline what that evidence  
7 was just so that we are clear as to what evidence you  
8 did give that you are referring to?

9 A. Okay. Specifically on page 109 of  
10 the Timber Management Planning Manual, there currently  
11 is a requirement which has not been followed in all  
12 cases of plans prepared to date.

13 I'm referring to page 109, under section  
14 4.15.1, the seventh indented point, and I'm making  
15 reference to the requirement there to provide, in  
16 addition to the stand listings, the areas that are both  
17 allocated in total for each stand, the area allocated  
18 for normal operations and the associated prescription,  
19 the area allocated for modified operations and the  
20 associated prescription, and the area allocated for  
21 reserve.

22 And the caution that I put on that is  
23 contained in the note that follows which indicates that  
24 the references can occur both individually for each  
25 stand or groups and reference to generic prescriptions



1       that can be contained in the silvicultural -- or that  
2       would be contained in the silvicultural ground rules,  
3       so, as such, the intent is to have prescriptions for  
4       stands or a group of stands.

5               Relative to the evidence I gave earlier,  
6       that I think it is more appropriate to deal with a  
7       block of stands rather than individual stands, and I  
8       think it is appropriate to reference those blocks to  
9       the site descriptions that are contained in the  
10      silvicultural ground rules; however, leaving the final  
11      prescription to the time at which the full information  
12      is available after harvest.

13             And, Mr. Chairman, I also make caution in  
14      that regard to the need for flexibility to move between  
15      options. If upon visiting the site and discovering --  
16      observing some other conditions, that flexibility would  
17      be needed so as not to be put into a situation of  
18      formally amending the plan.

19             MR. FREIDIN: Okay. Two very quick  
20      questions, I will try to go -- three questions.

21             Q. Quickly for you, Mr. Multamaki, two.  
22      Any relationship between the work which enabled you to  
23      provide the information in that last column about the  
24      stand listings, any relationship between the work that  
25      enabled you to do that and the work which enabled you

1 to provide the estimate of the soil characteristics on  
2 those various operating blocks so that you could do  
3 your bar chart?

4 MR. MULTAMAKI: A. Yes, the two were  
5 very inter-related.

6 Q. All right. You said in your evidence  
7 about the bar charts that they could give rise to  
8 unrealistic expectations.

9 I am just wondering, having regard to the  
10 fact that the stand listings, in the detail that you  
11 had them, was based on similar information as the bar  
12 charts, is the same unrealistic expectation a  
13 possibility in relation to the stand listings as well?

14 A. It's a possibility.

15 Q. My last question, my last official  
16 question, Mr. Kennedy, is for you. I don't have -- if  
17 I could just find -- if I could ever find it, it is a  
18 reference to one of the lists that Mr. Campbell put  
19 before you this morning that had the heading Sensitive  
20 Sites or something and it listed a bunch of features  
21 which I think Mr. Multamaki described as ANSIs, and let  
22 me see if I can find that.

23 THE CHAIRMAN: Mr. Freidin --

24 MR. FREIDIN: I have it.

25 Q. These were -- do you know the list I

1 am referring to, Mr...

2 MR. KENNEDY: A. Yes, I recall the list.

3 Q. Mr. Campbell made a comment that you  
4 didn't specifically respond to. He made the comment or  
5 suggestion that those particular features were  
6 identified as sensitive for timber management purposes.

7 Can you advise whether they were  
8 identified for that purpose or for some other purpose  
9 when the survey which identified them was done?

10 A. I believe I made reference to the  
11 fact that it is the best of my knowledge that this  
12 information was not gathered for the purposes of timber  
13 management planning, although it has been used as a  
14 source of information, but the information was gathered  
15 in relation to a program which was designed to identify  
16 natural resource features which may be appropriate for  
17 inclusion into the park program.

18 Q. And my last question is for you, Mr.  
19 Bisschop -- Mr. Churcher. I understand that your wife  
20 believes that the value of your attendance here is  
21 based on the number of questions that you get asked on  
22 re-examination.

23 MR. CHURCHER: A. I certainly hope not.

24 Q. Well, if that's the case, tell her  
25 that you were asked lots of questions.



1 MR. FREIDIN: And those are the questions  
2 for this panel.

3 MR. CHURCHER: Am I still under oath when  
4 I get home?

5 MR. FREIDIN: That's up to you.

6 THE CHAIRMAN: Okay, ladies and  
7 gentlemen, we will adjourn for the week and recommence  
8 next week on November the 8th at 8:30 a.m.

9 Thank you.

10 Thank you, Panel, you are dismissed.

11 --- (panel withdraws)

12 MR. FREIDIN: The infamous Panel 15 is  
13 finally over.

14 ---Whereupon the hearing adjourned at 3:15 p.m., to be  
15 reconvened Wednesday, November 8th, 1989, commencing  
16 at 8:30 a.m.  
17 [copyright, 1985.]  
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